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PARKER'S ELECTION MANUALS.

A

MANUAL

FOR THE

VOLUNTEER ASSISTANT

AT

ALL ELECTIONS HELD UNDER

THE CORRUPT PRACTICES ACTS.

BY

FRANK R. PARKER,

SOLICITOR AND PARLIAMENTARY AGENT.

LONDON:

KNIGHT & CO., 90, FLEET STREET, E.C.

1892.

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PARKER'S ELECTION MANUALS.

BY THE SAME AUTHOR.

A MANUAL FOR THE PRESIDING OFFICER and POLL CLERK at all Elections held under the Ballot Act, 1872.

A MANUAL FOR THE POLLING AGENT at all Elections held under the Ballot Act, 1872.

A MANUAL FOR THE COUNTING ASSISTANT and COUNTING AGENT at all Elections held under the Ballot Act, 1872.

A MANUAL FOR RETURNING OFFICERS and DEPUTY RETURNING OFFICERS at the First Election of County Councillors in January, 1889.

THE POWERS, DUTIES AND LIABILITIES of an ELECTION AGENT and of a RETURNING OFFICER at a Parliamentary Election in England or Wales. *Second Edition.*

THE ELECTION OF COUNTY COUNCILS under the Local Government Act, 1888. *Second Edition.*

AN ANALYTICAL INDEX AND DIGEST of the Supreme Court of Judicature Acts and Rules. *Second Edition, Revised and Enlarged.*

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PARKER'S ELECTION MANUALS.

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PREFACE.

The purposes and capacities in which persons may be employed for payment having, by the operation of the Corrupt and Illegal Practices Prevention Acts, 1883, 1884, been materially reduced, the acceptance of volunteer aid has become more and more general, and in some constituencies may be said to be almost essential to success in any election contest; the limit also which is now placed on the amount which the candidate or election agent may incur for paid assistance has added to the value of volunteer assistance. Accordingly, a great part of the election work, which was formerly the subject of remuneration, has now to be performed, if at all, by volunteers; and as the line between paid and unpaid labour becomes more and more sharply defined, so also do the functions which properly belong to the volunteer assistant, as distinguished from those which may still be more properly entrusted to the paid staff.

In the text-books on election law and practice are to be found passages dealing with the status and position of the volunteer assistant, the dangers or advantages of having recourse to his aid and influence, the part he usually or can safely take in the conduct or management of an election, and otherwise discussing his powers, duties and liabilities. But no work has yet appeared solely directed to the subject.

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It has therefore occurred to me that a Manual dealing especially with the volunteer assistant may be of use. Every politician likes to take some share in the work of the election of his candidate, and is desirous of learning so much of the dangers and intricacies of election law as may enable him to do his part without endangering his candidate's election. To supply in some degree this want has been my purpose in writing this book.

The use of legal terms and phrases has not been wholly unavoidable, but it has been my endeavour to express myself clearly and without ambiguity, and in language that may be comprehensible by the layman as well as by the trained lawyer.

F. R. P.

12 New Court, Carey Street.
May, 1892.

CONTENTS.

PART I.—PARLIAMENTARY ELECTIONS.

CHAP. PAGE

I.—The Volunteer Assistant 1

II.—Canvassers and Canvassing 8

III.—Committees and Committee Rooms 18

IV.—Public Meetings, Speeches, and Reports . . . 28

V.—Bringing Voters to the Poll 41

VI.—Corrupt Practices 48

VII.—Illegal Practices, Payment, Employment and Hiring 51

PART II.—MUNICIPAL ELECTIONS.

VIII.—Differences between Municipal and Parliamentary Elections 61

PART III.—COUNTY COUNCIL ELECTIONS.

IX.—Similarity of County Council and Municipal Elections 67

PART IV.—ELECTIONS OF LOCAL BOARDS, IMPROVEMENT COMMISSIONERS, POOR LAW GUARDIANS, AND SCHOOL BOARDS.

X.—Differences between the above and Municipal Elections 68

INDEX.

Index 71

ABBREVIATIONS.

B. A.	The Ballot Act, 1872 (35 & 36 Vict. c. 33).
C. I. P. P. A. . .	The Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51).
L. G. A. . . .	The Local Government Act, 1888 (51 & 52 Vict. c. 41).
M. C. A. . . .	The Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).
M. E. C. I. P. A. .	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70).

For other abbreviations, see the Tables of Abbreviations in 'The Election Agent and Returning Officer' and 'The Election of County Councils.'

A MANUAL

FOR THE

VOLUNTEER ASSISTANT.

PART I.

PARLIAMENTARY ELECTIONS.

CHAPTER I.

THE VOLUNTEER ASSISTANT.

	PAGE		PAGE
Volunteers, when agents of candidate	1	*No remuneration or refreshment*	2
Functions of volunteer assistants	2	*Political associations*	3
		Candidate a subscriber	6

Volunteers when agents of candidate.

EVERY volunteer assistant appointed or engaged with the knowledge and approval of the candidate or his election agent, is an agent for whose corrupt and illegal acts the candidate is responsible (see ‘ Election Agent,’ pp. 437, 442). Every volunteer assistant not so appointed or engaged, but whose services are subsequently adopted by the candidate or his election agent, is also an agent for whose corrupt and illegal acts the candidate is responsible (see *ib.* p. 449). A volunteer assistant may thus, designedly or inadvertently, render the election void for acts of which the candidate is entirely

CHAP. I.

ignorant, and of which he would strongly disapprove and do his utmost to suppress. Herein lies the danger attending the acceptance of volunteer assistance, and the reason of the natural reluctance and hesitation there is in a prudent candidate or election agent before having recourse to such aid. Herein also lies the desirability of extreme care in the selection of volunteer assistants, and of the rejection of all those who cannot be relied on as faithful, discreet, trustworthy, and well acquainted with election law and its pit-falls. Lastly, herein lies the necessity for extreme circumspection on the part of the volunteer assistant lest he should, even inadvertently or unwittingly, endanger the return of the candidate whose election he desires to promote.

Functions of volunteer assistants.

If it be determined to accept the aid of the volunteer assistant (and his aid is practically indispensable in most constituencies), he may act in any capacity to which it may please the candidate or election agent to appoint him. He may become the legal adviser, election agent, sub-agent, polling or counting agent, and if he perform all or any of these functions, he will find as full information as the author is able to give him on his powers, duties and liabilities in the author's other works on election law.

But these functions are better and more usually left to the paid staff, and the volunteer assistant can more usefully act as canvasser, committee man, public speaker, or general worker, and it is in some one or more of these capacities that he is usually employed. These branches of election law and practice accordingly form the subject of the present Manual.

No remuneration or refreshment.

It must be borne in mind that the volunteer assistant must be wholly unpaid, that the giving of refreshment is only another form of payment (*Barrow-in-Furness*, 4 O'M. & H. 78), and that no office, place, or employment,

valuable security or other equivalent for money, or valuable consideration (see C. I. P. P. A. s. 64) must be given or promised, under penalty of an illegal employment (*ib.* s. 17), and of an illegal practice, which may avoid the election, if given or promised by the candidate or his election agent (*ib.* s. 17 ; s. 21, sub. 2 ; s. 11), or if paid by any agent (*ib.* s. 28, s. 11).

Political associations.

A very serious question which arises for consideration in every constituency in which there is a political club or association of the same political principles as those of the candidate, is as to how far he shall intrust his interests in their hands, or make common cause with them. To use a colloquial expression, the candidate may "run" the association, or the association the candidate ; there is danger in either course, and yet, in many cases, the candidate may find it hopeless to conduct his election with success, if he wholly estrange himself from the leaders and representatives of his political supporters. On the one hand, such an association generally contains within its ranks, the most active and valuable of the candidate's supporters ; on the other hand, its members and officers may be, and frequently are, insufficiently experienced or informed as to the intricacies and dangers of election law.

It is, therefore, very important that the candidate and his election agent should consider how far they may safely avail themselves of the assistance of any such club or association. The legislature, while recognising the existence of political associations, has not prohibited them from taking part in an election, and thus has impliedly sanctioned their doing so ; but it throws upon the candidate the *onus* of shewing that the act impugned was innocent, or one for which he is not responsible under election law.

Firstly. If the candidate is unwilling to run any risk

CHAP. I.

with regard to the association, or to trust them in the least, cares nothing for their assistance, and does not fear their hostility or neutrality, he may decline to have anything to do with them, and in that case they can incur no expense in regard to the election, and consequently can take but little part therein. Where practicable, this is the only really safe course for a candidate to pursue, and his only real security against responsibility for corrupt and illegal practices committed by members of the association. If he decide on this course, he should resign any office he may hold in the association, should keep his organization altogether apart from that of the association, shou'd appoint an independent committee not limited to members of the association, should abstain from using the rooms or offices of the association, should appoint his own volunteer canvassers and workers, and generally, and as far as possible, should avoid communication between himself, his election agent and staff on the one hand, and the association, its officers and members, on the other.

Under such circumstances the association cannot, for example, organise or superintend a canvass of the constituency or any part thereof, for the purpose of promoting the election of any particular candidate, because it cannot incur the necessary expenses (C. I. P. P. A. s. 28, sub. 2); nor can it employ any clerk or person to arrange or analyze the result of any such canvass. For an association so acting to make any such payments would be an illegal practice (*ib.*), rendering all members who have taken part therein liable to fine and punishment, and if the association or any such members were held to be the agents of the candidate, his election would be avoided (*ib.* s. 11).

This course does not debar the candidate and his election agent from accepting such legitimate services as

the association and its members are willing to render voluntarily. But if any such services are accepted, it is eminently desirable that the candidate and his election agent should carefully watch the proceedings of the association and its members, and should at once break off the connection and repudiate the association, if they have reason to believe that it has acted, or is about to act, in contravention of the law.

Secondly. If the candidate desire to retain the control over the election, and yet to avail himself to some extent of the assistance, power, and influence of the association, he may direct his election agent to pay such of their expenses as he may think proper, and though he will thereby probably make them his agents, yet if he employ them in particular transactions only, it is possible that he may, by thus limiting the scope of their authority, limit also his own liability, and so escape responsibility for an illegal act done outside that authority (see 'Election Agent,' pp. 442, 445). In this case the candidate or election agent should precisely define the transactions in which they will employ, or seek the aid of, the association, and should make these limitations widely known to the officers and members of the association.

Thirdly. If the candidate allow the association to undertake the conduct of the election, and place himself unreservedly in their hands, he undoubtedly makes the association, its officers and members, his agents (see 'Election Agent,' p. 446), and must trust the success of his election, and his freedom from subsequent punishment, entirely to them. In that case, the candidate will, no doubt, appoint as his election agent any person whom the association may nominate, the association will superintend the work of the election throughout, and the association or the candidate will supply the funds, as may be arranged between them. The direct and zealous

CHAP. I.

co-operation of the association with the candidate will thus be obtained to the fullest extent, the cost of the election may be materially lessened, and the machinery and influence of the association, and its branches or affiliated associations, secured and utilised. This course comprises the maximum amount of benefit which a candidate can derive from the support of a political association, and at the same time the maximum amount of risk of the election being avoided for breaches of the election laws.

It must be remembered that if the association be a "permanent political club," its rooms can be used as committee rooms; but if it be not such a club, care must be taken to ascertain, before its rooms are so used, that it does not fall within the category of places prohibited from use as committee rooms (as to which see *post*, p. 20).

Candidate a subscriber.

In some parts of the country a practice appears to be growing up by which a candidate, being a subscriber to a political association, is deemed to be entitled, without further payment, to the assistance of the paid officers of the association in promoting his election, and yet not bound to return his subscription to the association, or any payment made by the association, in his election accounts. It is submitted that this practice is fraught with danger to the candidate, and may in many cases prove to be illegal. The provision by the association of the services of such paid officers in furtherance of the candidate's election, is a provision of paid employment, or of money in connection with the election, and if it be beyond the purposes, capacities, or amounts authorised by law, it is illegal. The omission from the election accounts of all allusion to the subscription and provision of paid employment, is likewise illegal. And a careful examination of the whole position will probably shew

that the C. I. P. P. A. has been offended against in other respects.

These difficulties are sometimes recognised, and attempted to be met, by the association appointing its paid officer as "registration agent" merely, confining his remuneration to services rendered in connection with registration, and treating his services at elections as rendered voluntarily, without payment, and as arising solely from his strong political interest in the party. But such distinctions will generally be found to be too fine to be capable of being justified in law, or sustained before any tribunal before whom the question may come.

CHAPTER II.

CANVASSERS AND CANVASSING.

	PAGE		PAGE
Definitions	8	*Canvass book*	10
Unpaid volunteer canvassers	„	*Canvasser's other requisites.*	14
Persons disqualified as canvassers	9	*Expenses of canvass* . .	„
Register, where obtainable and at what cost . . .	„	*Dangerous practices in canvassing*	16
		Canvassing by post . . .	17

Definitions.

To canvass is to solicit votes or interest, to use efforts to obtain an office or position; and a canvasser is one who solicits votes or goes about to make interest (Webster's Dictionary); one who solicits or persuades, or attempts to persuade, any person to vote, or to abstain from voting (see 45 & 46 Vict. c. 50, s. 77, now repealed by 47 & 48 Vict. c. 70, s. 38); one whose influence with the electors, either personal or by his powers of persuasion, is relied on, as distinguished from a mere messenger sent round to know how the electors mean to give their votes (*Bodmin*, 1 O'M. & H. 120). Canvassing may be either by asking a man to vote for A., or by begging him not to go to the poll, but to remain neutral, and not to vote for B. (*Westbury*, *ib.* 56).

Unpaid volunteer canvassers.

Formerly canvassing was almost invariably paid for, and paid canvassers formed an important part of the candidate's paid staff. But canvassing and canvassers are not mentioned among the purposes and capacities for which persons may now be engaged or employed for payment or promise of payment (C. I. P. P. A. s. 17, sub.

1 ; sch. I. pts. 1, 2), and the payment of canvassers being thus illegal, unpaid volunteers must be found to supply their place, if a personal canvass be thought desirable.

Persons disqualified as canvassers.

Certain persons are altogether disqualified as canvassers.

No person must be engaged as a canvasser who, within seven years, has been found guilty of any corrupt practice by any competent legal tribunal, or by a committee of the House of Commons, or by the report of an election judge, or by the report of election commissioners, for if the candidate personally engage such a person as canvasser, knowing that he has been so found guilty, his election may be declared void (31 & 32 Vict. c. 125, s. 44). Although paid canvassing is abolished (as mentioned *supra*), this enactment is still law, and it applies to a volunteer canvasser as well as to the paid canvasser who might formerly have been engaged (see *North Norfolk*, 1 O'M. & H. 238) ; and if the canvasser is engaged with the knowledge and consent of the candidate, the latter has "personally engaged" him within the meaning of this enactment (*ib.* ; approved *Norwich*, 2 *ib.* 40). The employment of a scheduled person after the expiration of the seven years does not endanger the election, as the disability has then ceased (*Galway County*, *ib.* 52).

No peer, lord-lieutenant, prelate, minister of the crown, crown servant, soldier, officer or constable of the metropolitan or of any county or borough police, should engage in canvassing, or be appointed or accepted as a canvasser, as they are prohibited from using any influence they may possess in the election of members of parliament (see 'Election Agent,' p. 419).

Register, where obtainable and at what cost.

In order to conduct a canvass, a copy of the register is required. This is obtainable in a county from the clerk of the peace, and in a city or borough from the

CHAP. II.

town clerk (6 & 7 Vict. c. 18, s. 49). The charge is regulated by sch. D, No. 2, to 6 & 7 Vict. c. 18, according to the number of names, and is for every copy of the register, or any part thereof, as follows :—

									s.	*d.*
Not exceeding	1,000	names	.	.	.	.			1	0
Exceeding	1,000	and not exceeding				3,000	.		2	6
„	3,000	„	„			6,000	.		5	0
„	6,000	„	„			9,000	.		7	6
„	9,000	.	.	.	.	.	.		10	0

Canvass book.

The canvasser should also be provided with a canvass book, and a pen and pencil. The following is a form of canvass book :—

[*On both sides of cover.*]

[Name of county *or* borough] Parliamentary Election 189 .

.....Polling District.

.....Polling Station.

Election of *A. B.*, Esq.

Book No. .

Mr. , Canvasser.

This book, when not in use, is to be returned to :—

Mr. , Election Agent,

whose office is at :—

.....Street or House.

.....[Name of town].

[*Inside front of cover.*]

INSTRUCTIONS.

Mark a line (|) or a cross (×) in the appropriate column (" For, Against, Doubtful ") to shew how, after personal inquiry of the voter, or of his relatives, neighbours or friends (as you may find best), you believe each voter will vote. If the voter

declines to answer your inquiries, or claims the secrecy of the ballot, he generally belongs to the opposite party.

If you find a voter holds strong views on any special point, or desires to know your candidate's views on any such point, or that it is desirable that he should have any particular leaflet circulating at the election, but which you may not have with you at the time—note the facts in the column headed "Special points or Leaflet required."

Distribute freely the candidate's address, and all the leaflets with which you are entrusted; and when your supply is exhausted, report the fact at your Committee Room.

If possible obtain a promise to vote for your candidate from every voter whom you canvass, and ask every voter to poll early. A voter whose name is on the register, is entitled to vote notwithstanding that he has since removed to another address, and notwithstanding that his name is incorrectly stated on the register.

If any voter is *absent*, *dead*, or *removed*, mark a line or cross in the appropriate column, and if the voter has *removed*, ascertain his present address, and add it under his name. Report all these cases as soon as possible at your Committee Room.

Fill up the daily return sheet (with which you are supplied) from your canvass book at the close of each day's work, and send such return into your Committee Room at once.

Report the results of your canvass at your Committee Room on the poll day about every hour.

Take careful note of any practice which you may observe and deem to be illegal or improper on the part of the opposite party, and report same as soon as possible at your Committee Room.

[*On page* 1.]

WARNINGS.

You must **Not** give, offer, promise, or procure, either to any voter, or to any other person for or on his behalf, any money, food, drink, office, employment, or any other consideration.

You must **Not** threaten any voter, or any of his friends, relatives or servants, with any consequences whatever.

You must **Not** counsel or induce any voter to vote twice, or

CHAP. II.

to apply for a ballot paper in the name of any other person, living or dead, or of any fictitious person.

You must **Not** pay for the conveyance of any voter to or from the poll, or borrow or use any public stage or carriage, or horse or animal which is kept or used for letting out on hire.

You must **Not** induce or procure any prohibited person to vote.

You must **Not** publish a false statement of the withdrawal of the opposite candidate.

You must **Not** incur any liability or make any payment whatever, however small.

You must **Not** vote if you are employed for payment or promise of payment.

☞ *See also the Caution on the last page of this Book.*

[*Canvass pages—pp.* 2 *et seq.*]*

.....Street or Place.

No. or Name of House.	Name of Voter.	No. on Register.	Absent.	Removed.	Dead.	Politics.	For.	Against.	Doubtful.	Special Points, or Leaflet Required.	Remarks.

* NOTE.—The columns headed "No. or Name of House;" "Name of Voter;" "No. on Register," and all the blank spaces on the cover, should be carefully filled up before the book is handed to the canvasser. If the canvass is made on behalf of two candidates, the columns "For," "Against," "Doubtful," must be duplicated, and the names of the candidates written over each trio of columns.

[*On last page, and inside back of cover.*]

CAUTION.

The election of *A. B.*, Esq., for this county [*or* borough] will be RENDERED VOID if any canvasser or volunteer assistant commits any of the following offences:—

CORRUPT PRACTICES.

Bribery—whether by giving, promising, procuring, or receiving any money, valuable consideration, office, place or employment.

Treating—direct or indirect, whether by corruptly giving, providing, paying for, accepting or taking, any meat, drink, entertainment, or provision.

Undue influence—direct or indirect, whether by the use or threat of force, violence, or restraint, injury, damage, harm, or loss, abduction, duress, or fraudulent device.

Personation—or the aiding, abetting, counselling, or procuring the commission of personation.

ILLEGAL PRACTICES.

Paying for the *conveyance of voters* to or from the poll.

Paying for the *exhibition of bills*, addresses, or notices. } All lawful contracts for these purposes have been entered into by the election agent.

Paying for any *committee room* } into by the election agent.

Paying any *election expense* otherwise than through the election agent.

Paying any *money provided* for election expenses otherwise than to the election agent.

The *punishment* for a *corrupt practice*, other than personation, includes ONE YEAR'S IMPRISONMENT with or without hard labour, or a FINE of TWO HUNDRED POUNDS; the punishment for personation is two years' imprisonment with hard labour; and *seven years' incapacity to vote or to hold any public or judicial office* follows in either case.

The *punishment* for an *illegal practice* may be a *fine of* ONE HUNDRED POUNDS and *five years' incapacity to vote* in this county [*or* borough].

Where information is given to the Public Prosecutor that any corrupt or illegal practices have prevailed, it is his duty to make such inquiries, and to institute such prosecutions as the case appears to him to require.

Offenders are also liable to be ordered to pay costs.

All persons assisting in the election of *A. B.*, Esq., are hereby warned and prohibited from committing any of the above offences, or any other offence against the law. No voter employed for payment can vote, and no person employed for payment should canvass.

Canvasser's other requisites.

The canvasser should also possess a sufficient number of the candidate's address to the electors, printed on cards or paper of a convenient size, any leaflets which it may be desired to circulate, a quantity of canvassing cards, and a number of daily return sheets. The possession of the candidate's address will enable the canvasser to supply it to such electors as have not received or read it, and to correct authoritatively any misapprehension on the part of the elector on any of the matters dealt with in the address.

The canvassing card may be in the following form :—

County [or Borough or Division] of .

Parliamentary Election , 189 .

Mr. *A. B.* the [liberal] candidate respectfully solicits your vote and interest.

C. D.
Chairman of Committee for the said *A. B.*

The daily return sheet should correspond in its headings with those in the canvass book, and should be filled up from the latter by the canvasser at the close of each day's work, and at once forwarded by the canvasser to his committee room.

Expenses of canvass.

The necessary expenses of a canvass by volunteers may, it seems, be incurred by the candidate's election

agent, for although the payment of canvassers is illegal, as already mentioned (*ante*, p. 8), there is no prohibition against expenditure for the materials for a canvass. Thus, there is no illegality in expenditure for canvass books, registers, circulars, cab hire, or travelling expenses incurred in canvassing. And it has been held that a payment to a registration agent for canvass books, polling district books, directed envelopes, and wall sheets of voters' names, may be incurred, and included in the return of election expenses under the heading of "miscellaneous matters" (*Ipswich*, 54 L. T. 625).

But whether or not the expenses of a canvass by volunteers be disbursed or re-couped by the election agent, an individual canvasser may pay out of his pocket any *small* legal expense, if such sum is not repaid to him (C. I. P. P. A. s. 28, sub. 1), *e.g.* for a canvass or memorandum book, copy of the register, pencil, telegram, messenger, postage, cab hire, etc.; and thus several individual canvassers may collectively, and by arrangement among themselves, conduct a complete canvass of the whole constituency without in any way infringing the law.

The expense so incurred by a volunteer canvasser must be (1) small, (2) legal, (3) incurred by the canvasser himself, and (4) not repaid to him (*Ipswich*, 4 O'M. & H. 73; C. I. P. P. A. s. 28, sub. 1); if the canvasser does not desire to pay the expense out of his own pocket, or if the expense is not "small," it must be incurred through, and paid by, the election agent (*ib.* ss. 27, 28). The cab hire of a canvasser going to canvass a distant place, is a small expense, legally incurred by himself, for the purpose of the election, which need not be returned to the election agent if the canvasser does not mean to be repaid by the election agent (*Ipswich*, 31st March, 1886). A payment of £20 for election

CHAP. II.

placards is not illegal in itself, but not being a "small expense," it is an illegal payment, unless made through the election agent (*ib.*; *Norwich*, 4 O'M. & H. 89); while, on the other hand, a payment of a shilling to a canvasser, though a small expense, is not a legal expense, and therefore is an illegal payment (*Ipswich*, 31st March, 1886). This provision is meant to apply to such small payments as cab hire, telegrams, or postage, where the payer is not, and does not intend to be, repaid (*Norwich*, 4 O'M. & H. 89).

Dangerous practices in canvassing.

The canvasser must carefully avoid exercising any undue influence (as to which see 'Election Agent,' p. 423), and must remember that there are certain practices in canvassing that have been condemned by the election judges. It has been laid down that canvassing ought not to be carried on up to the last moment before polling; and that a canvasser should not station himself in front of a polling booth to record those who go up to vote, and to urge them as to which way they should vote; and that although such practices may not amount to undue influence over the voters, or avoid the election, yet they are illegitimate practices, and ought never to be resorted to (*Lichfield*, 3 O'M. & H. 138); also that canvassing handbills, or polling cards, should not be obtruded or thrust by physical force into the hands of voters as they are going into the polling station (*Stepney*, 4 *ib.* 52, 53). And it has been said that it is a dangerous practice to organize canvasses at public-houses, because it induces indiscriminate drinking, and may lead to charges of treating being established against the candidate, and to the landlord supplying drink to the friends of the committeemen and workers beyond that which he is authorized to supply to the latter, and on the chance of his being ultimately paid (*Tamworth*, 1 *ib.* 86).

A system of dividing a constituency into wards, and

of forming committees among the voters, and employing them to send out canvassers, has also been condemned as a dangerous system, and as one which, if merely colourable, will avoid the election (*Coventry*, 1 O'M. & H. 102); as to what is "colourable," see 'Election Agent,' p. 324.

Canvassing by post.

Canvassing may be by circulars and letters sent through the post office, and, where practicable, this is by far the safest mode of ascertaining the views and intentions of the electors. There is then no direct contact with the electors, and the only expenses incurred are those of printing, postage, and the addressing of envelopes or wrappers, and these expenses, being capable of being known or ascertained, can be kept completely under control.

CHAPTER III.

COMMITTEES AND COMMITTEE ROOMS.

	PAGE
COMMITTEES	18
Definition	„
Number and selection of committee	„
Illegal committees	19
COMMITTEE ROOMS	20
Definition	„
Places prohibited as committee rooms	„
Licensed premises	21
"Permanent political club"	21
Public elementary school	22
Illegal hiring of committee room	23
Number	„
Hiring of room	24
Rooms lent gratuitously	25
Situation of rooms	„
Use of rooms	26

COMMITTEES.

Definition.

A COMMITTEE is a person or persons to whom anything is committed (*re Scottish Petroleum Company*, 51 L. J. Ch. 845); an individual or body to which others have committed or delegated a particular duty, or who have taken on themselves to perform it in the expectation of their act being confirmed by the person or body they profess to represent (*Reynell* v. *Lewis*, 15 M. & W. 529); and it has been defined as meaning, in parliamentary elections, a limited number of persons in whom faith and confidence are placed by a candidate, and between whom there exists some privity (*Westminster*, 1 O'M. & H. 92). A body of 600 persons cannot rightly be denominated a committee (*ib.*).

Number and selection of committee.

A committee should consist of as few persons as possible, it should be appointed by the candidate or his election agent, and not by any political club or associa-

tion, it should not be limited to members of any such club or organization, each member of the committee should be a person upon whose judgment and discretion the candidate and his election agent can thoroughly rely, and it should be as representative of all classes in the constituency as is possible. A committee may be, individually as well as collectively, agents, for whose acts the candidate is responsible (see 'Election Agent,' p. 443); and if held to be such agents, a corrupt or illegal practice committed by any one of them may avoid the election.

Illegal committees.

A committee must not be formed for an illegal object. Committees were formed, having paid agents at their heads, for the purpose of getting the voters together, so that the latter might be corrupted at any moment at which it might become necessary, and it was held that the proceedings of this committee amounted to bribery (*Stafford*, 21 L. T. 210). Again, while it is permissible to employ a single spy or detective to find out quietly whether corrupt practices are going on, on a particular side, it has been laid down that it is illegal to employ a "vigilance committee," or large body of persons, to search actively for corrupt practices, and that if such persons commit violence, it will amount to intimidation (*ib.*). A detective committee must, therefore, consist of as small a number of persons as practicable, and must be very careful that it does not, collectively or individually, interfere actively with any person, and that its investigations are not carried to an extent that might subject it to condemnation.

Committees must be careful that all their acts are legal; thus, they must not publish, or sanction the publication of, any document which unjustifiably and unnecessarily reflects on the private character of others, as by imputing corrupt practices, or they may render themselves liable for damages in an action for libel

CHAP. III.

(*Wilson* v. *Reed*, 2 F. & F. 149). Any person who acts as a member of a committee is liable to the penalties for any illegal practice, hiring etc., in which he has participated (*Buckrose*, 4 O'M. & H. 114).

COMMITTEE ROOMS.

Definition.

No affirmative definition of a committee room has been enacted; but the expression "committee room" shall not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting business with his agents in relation to such election; nor shall any room or building be deemed to be a committee room by reason only of the candidate, or any agent of the candidate, addressing therein electors, committee men, or others (C. I. P. P. A. s. 64). Beyond this, the election court will have to determine, from the circumstances of each particular case, whether a room is or is not a committee room; but by thus speaking of a room *or building*, the legislature seems to imply that a committee room may include more than a single room. It therefore seems probable, that if reasonably and *bonâ fide* required, and especially in the case of a central committee room, the term "committee room" would be held to apply to a set of offices, or entire building, comprising a clerk's room or rooms, and a private consultation room, and would not invariably be limited to a single room. Any room, place, or building habitually used for the business of the election, and not being the election agent's office, should be treated and deemed to be a committee room by the election agent, both in his return of election expenses and in all other respects.

Places prohibited as committee rooms.

A committee room must not be in any premises licensed for the sale, wholesale or retail, of intoxicating liquors, nor in any premises where any intoxicating liquor is sold, or supplied to members of a club, society, or association, other than a permanent political club; nor in any

premises where refreshments [*i.e.* food or drink] are sold for consumption on the premises ; nor in the premises of any public elementary school ; and if any such prohibited place is hired or used as a committee room, it is an illegal hiring (C. I. P. P. A. s. 20). But any part of any of the above-named premises which is ordinarily let as chambers or offices, or for public meetings or arbitrations, is not within the above words, if such part has a separate entrance, and no direct communication with any part in which any liquor or refreshment is sold or supplied as aforesaid (*ib.* ; see *Devonport*, 2 Times L. R. 346 ; *ex parte Montefiore*, 5, *ib.* 78). The existence of a refreshment or liquor bar, is an indication that refreshments (food or drink) are supplied.

Licensed premises

The "licensed premises" to which the above prohibition applies, include both those licensed by justices and those licensed by the excise authorities, viz., ale-houses, wine and beer-houses, the premises of grocers and others licensed to sell wine, beer, etc., wholesale brewers, wine and spirit merchants, hotels, inns, coffee taverns, railway refreshment rooms, and refreshment houses kept open between 9 p.m and 5 a.m.

The above words "premises where any intoxicating liquor is sold or supplied to members of a club, etc., other than a permanent political club," are large enough to include the premises of any brewer, wine merchant, or spirit dealer, who supplies the members of a club, society, or association, with any intoxicating liquor for consumption *off* the premises (compare the words in the next sentence of the section), and such premises should therefore be considered as unavailable for committee rooms.

"Permanent political club."

What construction will be given to the term "permanent political club," it is not easy to say ; but it seems clear that a club which is founded contemporaneously

CHAP. III.

with, or for the purposes of, the election, and is not intended to continue beyond the close of the election, does not fall within the words or the meaning of the phrase. On the other hand, a club *bonâ fide* intended to continue beyond the election, and not established solely for the purposes of the then pending election, will probably be held to be "permanent," though its origin may have coincided with the commencement of the election. Again, the club must be "political," that is, its qualification for membership must be the possession, or the object of the club must be the furtherance, of certain views in politics, though other qualifications or objects may no doubt be combined therewith.

If these "permanent political clubs" are used as committee rooms, care should be taken, first, that the particular place in question *is* a "permanent political club" within the meaning of the above section; secondly, that the candidate and his election staff are kept altogether apart from the club, its members, offices, and officers; and, thirdly, that as far as possible communication is not kept up between the former and the latter. If the first of these precautions is not attended to, the election may be avoided for the illegal practice of using a prohibited place as a committee room (C. I. P. P. A. s. 20, and s. 21, sub. 2); and if the second and third of these precautions are disregarded, the club and its members may be held to be the agents of the candidate for whose acts he is responsible (*ib.* s. 64, "person," and see 'Election Agent,' p. 444).

Public elementary school.

The "premises of any public elementary school" include the master's dwelling-house, the play-ground, and all that is within the curtilage of the school, none of which can therefore be used as a committee room (*Buckrose*, 4 O'M. & H. 113). But a school house and premises, provided rent free by the owner, who also

paid the rates, has been held not to be within the prohibition, although the school managers received the parliamentary grant (*ib.* 115); and if this distinction be sound, such premises can be used as a committee room.

Illegal hiring of committee room.

The hiring, or letting, or use, of any of the above prohibited premises, or of any part thereof, for a committee room is an illegal hiring (C. I. P. P. A. s. 20); and if the illegal hiring be by the candidate's election agent, the election may be avoided (*ib.* s. 21, sub. 2, and s. 11). The hirer and the person using are equally guilty of an illegal hiring, and so also is the person letting, if he knew it was intended to use the room as a committee room (*ib.* s. 20), but not the person allowing the use.

Number.

In a county, there may be hired for payment:—(*a*) one central committee room; (*b*) one committee room for each polling district; and (*c*) where the number of electors in a polling district exceeds 500, one additional committee room for every *complete* 500 electors in such district over and above the first 500 (C. I. P. P. A. s. 7, sub. 1 *c*, and sch. I. pt. II. cl. 7). Thus, in a county of five polling districts, A., B., C., D., and E., having in A., 300 electors, in B., 700, in C., 1,000, in D., 1,490, and in E., 1,501, the number of committee rooms which may be hired for payment is one central committee room, one committee room each for A. and B., two committee rooms each for C. and D., and three committee rooms for E., making a total of ten committee rooms. A division of a county is to be considered a separate county (48 & 49 Vict. c. 23, s. 9, sub. 3).

In a borough, there may be hired for payment one committee room, and where the number of electors exceeds 500, one additional committee room for every 500 electors or part of 500 (C. I. P. P. A. s. 7, sub. 1 *c*, and sch. I. pt. II. cl. 6). Thus, where the electors in a

CHAP. III.

borough amount to 999, two, and where they amount to 1,001, three committee rooms may be hired for payment. A division of a borough is to be considered a separate borough (48 & 49 Vict. c. 23, s. 13, sub. 5).

No payment, or contract for payment, shall be made on account of any committee room in excess of the number allowed as above (C. I. P. P. A. s. 7, sub. 1 *c*), under penalty of an illegal practice (*ib.* sub. 2), which may avoid the election, if such payment be made or contract be entered into by the candidate or his election agent (*ib.* s. 11). "Payment" includes pecuniary reward, valuable security, or consideration (*ib.* s. 64). The rights of creditors, ignorant of the facts which make the contract or payment illegal, are saved (*ib.* s. 19).

Hiring of room.

Every committee room hired on behalf of the candidate must be hired by the election agent, by himself, or his sub-agent (C. I. P. P. A. s. 27, sub. 1); the terms of the hiring should be reduced into writing, and the price to be paid, and the date at which the occupation of the room will commence and end, should be distinctly specified. The sum agreed to be paid should be a fair and reasonable sum, and in no sense "colourable" (as to what is "colourable," see 'Election Agent,' p. 394).

The agreement may be in the following form :—

I, *G. H.*, of
the election agent for *A. B.*, Esq., a candidate at the parliamentary election for the county [*or* borough *or* division] of to be held , 189 , do hereby agree to hire, and I, *K. K.*, of in consideration of the sum of £ , to be paid to me by the said *G. H.*, do hereby agree to let, the room known as [*describe the room or premises*] to be used from this day forth until the close of the poll as a COMMITTEE ROOM for the said candidate at the said election. And for the consideration aforesaid I, the said

K. K., further agree to supply reasonable firing, lighting and cleaning for the said room.

Dated this

(Signed) *G. H.*
K. K.

Witness, *P. Q.*
(*Address*)
(*Description*)

If two or more candidates, by themselves or any agent or agents, hire or use the same committee rooms, they shall be deemed, for the purposes of ascertaining the maximum amount of expenses, to be joint candidates; but the employment and use of the same committee room, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates (C. I. P. P. A. sch. I. pt. V. cl. 4). An elector who receives payment for a committee room can vote; he is not "employed," within the meaning of C. I. P. P. A. s. 17, or 30 & 31 Vict. c. 102, s. 11.

Rooms lent gratuitously.

The candidate, while thus limited as to paid committee rooms, is not prohibited from making use of any number of committee rooms that are lent to him gratuitously, provided such rooms are not in any prohibited place (as to which, see *ante*, 20). If a paid election agent supplies a room for use as a committee room, it seems better that it should be treated as paid for by his fee, rather than as simply lent by him.

Situation of rooms.

Every committee room should be advantageously situated with regard to the requirements of the district, and to the position of the polling stations in the district. The central committee room should be provided in the most central and convenient place with respect to the whole constituency; the district committee room should, in like manner, be situated in the most central and acces-

CHAP. III.

sible part of the district. There is nothing to require that a hired committee room shall be situated in the constituency, nor yet that it shall be situated in the district for which it is allowed; and thus, if a constituency be divided into two polling districts, for each of which districts one committee room is allowed, they may both be situated in one district. Each committee room should be as spacious as is necessary for the requirements of the district.

Use of rooms.

The committee room must of course not be resorted to or used for any corrupt, illegal, or improper purpose. It should be placarded with all the instructions, cautions, and notices in use in the election, and in any way applicable to those who frequent the room. The central committee room should be under the immediate care of the chairman or of the election agent, and should be provided with at least one private room for consultations, committee meetings, etc. The district committee rooms should each be in charge of a responsible clerk, carefully selected by the chairman or election agent, and it may be convenient to consider such clerk as in charge of the electors in the district to which his committee room belongs, and of the communications, notices, etc., to be sent to them. Each clerk in charge should be in constant attendance at his room, and should be instructed to give information to all proper applicants, to see that favourable electors are fully instructed as to how and where to record their votes, and to take care that the documents, etc., supplied to his room are preserved undamaged and accessible. These will comprise :—(1) the register of voters for the whole constituency; (2) the part of the register assigned to the polling district served by his committee room; (3) a list of dead or absent voters; (4) a list of the out voters, including those residing in other polling districts; (5) a list of voters

residing in his district, but on the register for other polling districts. The clerk should also see that the election agent's instructions as to advertisements, arrangements for public meetings, etc., are punctually and properly carried out, and that no expense is incurred that the election agent has not expressly authorized.

CHAPTER IV.

PUBLIC MEETINGS, SPEECHES, AND REPORTS.

	PAGE
ELECTION MEETINGS . .	28
Definition	„
Places at which election meetings may be held .	29
Advertising the election meetings	30
Candidate's companions at meetings	„
Expenses of election meetings	„
Bands of music, torches, flags, banners, etc. . .	31
Chairman and his functions.	„
Expulsion of disturbers .	32
Stewards and persons to keep order . . .	33
Lecturers and speakers .	„
Employment for payment	„
Travelling expenses of volunteer lecturers and speakers. . .	34
SPEECHES.	„
Licence in speech . . .	35
Fair and bonâ fide *comment.*	„
Slanderous speeches . .	36
Blasphemous words . .	„
Seditious words . . .	37
Words amounting to contempt of court . . .	38
REPORTS	„
Newspaper reports of public meetings . .	„
Libellous comments . .	39
Imputations of corrupt conduct	„
Newsvendor of libellous newspapers	40

ELECTION MEETINGS.

Definition.

AN election meeting, within the meaning of the C. I. P. P. A., is one held after the election has commenced (see 'Election Agent,' p. 144), for the purpose of promoting or procuring the election of a particular candidate (see *ib.* p. 96). A meeting held to present a requisition to a person to stand for election, and to induce him to become a candidate, is not an election meeting; for a meeting held to select a candidate is not

a meeting to procure his election, and there is a great distinction between getting a candidate and promoting his election after you have got him (*Norwich*, 4 O'M. & H. 85, 86). If the primary, and direct, and real object is to get a candidate, the meeting is not an election meeting, although it indirectly promotes the interest of the party; but if the nominal object is to get a candidate, while the real object is to promote the election of a particular candidate, the meeting is an election meeting (see *ib.*).

Places at which election meetings may be held.

An election meeting may lawfully be held in any place in which a public meeting may lawfully be held (as to which see 'Election Agent,' p. 126); and, although a borough election cannot be held in any church, chapel, or other place of public worship (2 & 3 Will. IV. c. 45 s. 68), there is, apart from restrictions under trust deeds, etc., no legal objection to holding election meetings in dissenting chapels. A school-room in which meetings for public worship are occasionally held does not appear to fall within this prohibition, and there is no enactment rendering an election liable to be set aside for a disregard of this prohibition.

But although vestry meetings may, under certain circumstances, be held in a church, chapel or churchyard of the Church of England, the holding of "musters" or meetings in any such church, etc., is forbidden; and a disregard of this prohibition amounts to the ecclesiastical offence of profanation (see Canon 88), and might lead to brawling, which is also an ecclesiastical offence and a statutory offence (23 & 24 Vict. c. 32, s. 2; and see *Asher* v. *Calcraft*, 18 Q. B. D. 607), whether it be committed in a churchyard (which is God's acre), or in a church (which is God's house). Upon these grounds the incumbent and churchwardens ought, it is submitted, to refuse permission for the holding of any election

CHAP. IV.

meeting in any church, chapel, or churchyard, and should remove any person attempting to hold any such meeting in defiance of their prohibition.

There is nothing to prevent an elector from letting any room or place for an election meeting, nor does he thereby disqualify himself from voting; and although rooms in public-houses, etc., are prohibited from being used as committee rooms (C. I. P. P. A. s. 20, and see *ante*, p. 20), it seems clear that candidates may hold meetings in public-houses, schools, and clubs (see *ib.* s. 64, tit. "committee room"). Care should, however, be taken that no election business, which is usually transacted in a committee room, is transacted in any place resorted to for a public meeting which is prohibited from use as a committee room.

Advertising the election meetings.

Every public election meeting should be well advertised, especially in the district in which it is to take place, and it may often be both convenient and prudent for the election agent to pay for the hall or room before, or immediately after, the meeting.

Candidate's companions at meetings.

"The candidate should be accompanied to public meetings by some of his leading supporters, but the less the members of the election staff interfere in such meetings the better" (Gorst, 19). The persons who attend the meetings, and are present on the platform, and speak on behalf of the candidate, may be held to be agents for whose acts the candidate is responsible (see 'Election Agent,' p. 438).

Expenses of election meetings.

The expenses of holding public election meetings are legal (C. I. P. P. A. sch. I. pt. II. cl. 5), and may, within the maximum, include all reasonable and usual expenses such as for chairs, gas, attendance, and (perhaps) shorthand writers. All orders or contracts respecting public meetings must be entered into by the candidate or his election agent or sub-agent (*ib.* s. 27, sub. 2), and must be

paid for by the election agent or sub-agent (*ib.* s. 28, sub. 1). If these orders are given by any third person, they are not enforceable against the candidate (*ib.* s. 27, sub. 2); and if they are paid for by any third person, the sums paid are irrecoverable from the candidate (*re Parker*, 21 Ch. D. 408), such third person is guilty of an illegal practice (C. I. P. P. A. s. 28, sub. 2; *Norwich*, 4 O'M. & H. 89), and if he be an agent of the candidate, the election may be avoided (C. I. P. P. A. s. 11). No political association or friend of the candidate, acting independently of him, can therefore give any orders for, or bear any of the expense of, any printing or advertising in respect of such candidate's election meetings.

Bands of music, torches, flags, banners, etc.

No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction (C. I. P. P. A. s. 16, sub. 1), under penalty of being treated as an illegal payment (*ib.* sub. 2), or as an illegal practice, if the offence be committed by the candidate or his election agent (*ib.* s. 21, sub. 2). The giving or providing of cockades, ribbons, or other marks of distinction is illegal *per se*, (see 17 & 18 Vict. c. 102, s. 7); but the giving or providing of bands of music, torches, flags, or banners is not illegal, if no payment, pecuniary reward, valuable security or consideration, or contract for payment, be made. The police may take possession of flags or banners held or used by persons attending an illegal meeting (*R.* v. *Fursey*, 6 C. & P. 81, 86).

Chairman and his functions.

Those who summon a meeting may lay down the order of the proceedings (*R.* v. *Chester, Archdeacon of*, 1 A. & E. 345), and it devolves on the chairman to preserve order in the meeting, and to regulate its proceedings (*R.* v. *D'Oyly*, 12 A. & E. 159; *Lucas* v. *Mason*,

CHAP. IV.

L. R. 10 Exch. 254), so that the object for which the meeting is called may be accomplished (*Pedley* v. *Chapman*, 7 Times L. R. 396). He should, as far as he can, insist on the use of decorous and temperate language; should endeavour to repress rude or violent interruption or disorder; and if his appeals and directions are not obeyed by the meeting, he is entitled to declare that "this meeting is now adjourned," or "at an end," or "closed," and to quit the chair. He should permit any speaker to challenge his ruling in a proper manner, should put all resolutions and amendments properly proposed and seconded and falling within the scope of the meeting (see *Henderson* v. *Bank of Australasia*, 45 Ch. D. 330), and in all that he does, he should bear in mind that absolute impartiality is one of the first principles of his office.

Expulsion of disturbers.

It is by no means easy to draw the line between the circumstances in which the expulsion of a disturber would be held to be justifiable, and those in which it would be held to amount to an assault (see *Vaughan* v. *Hampson*, 33 L. T. 15). Merely crying out "hear, hear," and putting questions to a speaker, and making observations on his statements (see *Wooding* v. *Oxley*, 9 C. & P. 1), or expressing, by applause or hisses, the sensations which naturally present themselves at the moment, would not be sufficient to justify expulsion (see *Clifford* v. *Brandon*, 2 Camp. p. 369; *R.* v. *Forbes*, 2 St. Tr. N. S. p. 960; *Gregory* v. *Brunswick, Duke of*, 6 M. & G. 205); but the expression of censure, although it may be noisy, must not be riotous; and if it be premeditated by a number of persons confederated beforehand to cry down the speaker, it becomes criminal (*R.* v. *Forbes*, *Gregory* v. *Brunswick, Duke of*, *ubi sup.*). And if a person wilfully disturbs a meeting, and by persistent noise or interruption prevents the object with which such meeting has

been convened from being carried out, it would seem to be perfectly lawful to eject him from the meeting, and, if necessary, by force (see *Wood* v. *Leadbitter*, 13 M. & W. 838; *R.* v. *Graham*, 9 W. R. 738). But no unnecessary violence should be used, the person to be removed should be requested to depart before force is used to eject him (*Tullay* v. *Reed*, 1 C. & P. 6); he should, if possible, be removed by pressure, or in some other peaceable way (*Imason* v. *Cope*, 5 C. & P. 193); care should be taken to remove him without injury to his person or clothes, and the ejection should be by, or by the orders of, those who are entitled to the immediate possession of the room; that is to say, those who have hired it, or to whom it belongs, or has been lent. The person ejected must not be given in charge to the police, unless he has done something amounting to a breach of the peace (*Wooding* v. *Oxley*, 9 C. & P. 1).

Stewards and persons to keep order.

The payment and employment for payment of stewards and persons to keep order at an election meeting is illegal (*Ipswich*, 4 O'M. & H. 72); but there is no illegality in the employment of unpaid volunteers for these purposes; and where any serious disorder is apprehended, the proper course is to communicate with the magistrates and police authorities, who, if need be, will swear in a sufficient number of special constables to assist the police in preserving the peace (*ib.*; *Nottingham*, 1 O'M. & H. 246; *Salisbury*, 3 *ib.* 134). Under no circumstances should "roughs" be employed (*Salford*, 1 O'M. & H. 140; *Ipswich*, 54 L. T. 624; and see *Longford*, 2 O'M. & H. 13).

Lecturers and speakers.

Employment for payment.

The engagement or employment for payment of a lecturer or speaker to address a public meeting, in order to promote or procure the election of a particular candidate, is an illegal employment (C. I. P. P. A. s. 17), subjecting the offender to a fine (*ib.* s. 21, sub. 1); if

CHAP. IV.

the employment be by the candidate or his election agent, it is also an illegal practice (C. I. P. P. A. s. 21, sub. 2), which may avoid the election (*ib.* s. 11); and if the payment be by any person other than the election agent, it is an illegal practice (*ib.* s. 28, sub. 2), which also may avoid the election, if such person be an agent (*ib.* s. 11). And the giving of refreshment is only another form of payment (*Barrow-in-Furness*, 4 O'M. & H. 81). But if the lecture and the lecturer can be kept wholly distinct from the candidate and his impending election, so that the lecture is not given in any way for the purpose of promoting or procuring the election of a particular candidate at a particular election, but is given merely as part of the ordinary work of a political party or association, there is, it is submitted, no illegality in paying the lecturer; nor need such payment, nor any subscription thereto by the candidate or any one else, be returned in the election accounts.

Travelling expenses, etc., of volunteer lecturers and speakers.

The payment of the mere travelling expenses of a volunteer lecturer or speaker at an election meeting is perhaps not illegal, though such payment must be returned in the election accounts. Such a payment must not include anything in the way of remuneration for the speech or lecture, or for refreshment; but the voluntary gift by the candidate to the lecturer of a night's lodging, a breakfast or dinner, may, it is submitted, be lawfully made by the candidate, and, if it involves any direct payment, may be treated by him as part of his personal expenses and included therein.

SPEECHES.

The volunteer assistant must be careful that any speech that he may make is in no way slanderous, and if he seek to aid the candidate with his pen he must see that any report of any meeting or literary article is not libellous. The subject is a large one, and beyond the scope of this work: but some of the leading principles

likely to come under consideration in connection with election meetings, may be concisely mentioned as a guide to the reader, who must have recourse to the well-known text-books on the law of defamation for fuller information on the subject.

Licence in speech.

Considerable licence in speech is not unusual at election meetings, but it is clear that the law attaches no especial privilege to speeches uttered at election times. Nor may a person say of another at a public meeting that which he cannot say in private. Slanderous words at a public meeting will support an action in the same manner as if uttered in private (*Harwood* v. *Astley*, 1 B. & P. N. R. 48 ; *Duncombe* v. *Daniell*, 8 C. & P. 222, approved *Pankhurst* v. *Hamilton*, 3 Times L. R. 505).

Fair and *bonâ fide* comment.

A speaker has full freedom of speech on matters of public interest and general concern. He may express his honest opinion, however adverse, of the policy or public conduct of any public man, and his comments, if uttered fairly, with an honest purpose, and not maliciously, are not actionable, even though they may affect the reputation of individuals (*Davis* v. *Duncan*, L. R. 9 C. P. 396 ; *Wason* v. *Walter*, L. R. 4 Q. B. 93, 94 ; *Jenner* v. *A'Beckett*, L. R. 7 Q. B. 11 ; *Merivale* v. *Carson*, 20 Q. B. D. 275). A candidate or an elector may comment on the public life and acts of his opponent, and, in his criticisms, may make imputations on his opponent's motives, provided that such imputations arise fairly and legitimately out of his public life and acts (*Parmiter* v. *Coupland*, 6 M. & W. 105 ; and see *Campbell* v. *Spottiswoode*, 3 B. & S. 776). But the mere fact that his opponent is also a candidate for election to parliament, does not give the speaker a right to discuss all his private life and history. How far electors are entitled to discuss personal matters which affect a candidate's fitness to represent them in parliament, is not clear (see *Harwood*

CHAP. IV.

v. *Astley*, 1 Bos. & P. N. R. 47 ; *Duncombe* v. *Daniell*, 8 C. & P. 222 ; *Davis* v. *Duncan*, L. R. 9 C. P. 396 ; *Pankhurst* v. *Hamilton*, 3 Times L. R. 504). But they certainly must abstain from speaking dishonestly, or maliciously, or recklessly of him (*Wilson* v. *Brown*, 1 Times L. R. 412), from making groundless or unfounded charges, and from unnecessarily and improperly imputing to him wicked or corrupt motives for his conduct (*Parmitter* v. *Coupland*, 6 M. & W. 105 ; *Campbell* v. *Spottiswoode*, 3 B. & S. 769).

Slanderous speeches.

Thus, a speaker may not falsely charge another with the commission of a crime, and therefore may not falsely charge another with bribery or corruption (*Bendish* v. *Lindsey*, 11 Mod. 194 ; *Dickeson* v. *Hilliard*, L. R. 9 Exch. 79) ; nor may a speaker utter false and defamatory words in reference to a person in his trade or profession, or which disparage him in an office of public trust. But words which impute immorality or dishonourable conduct, not amounting to a crime or to fraud or dishonesty in business, are not actionable when merely spoken, unless the accusation has caused special damage to the person defamed (*Barnett* v. *Allen*, 3 H. & N. 376 ; *Chamberlain* v. *Boyd*, 11 Q. B. D. 407).

Blasphemous words.

A speaker must carefully abstain from using blasphemous words. It is blasphemy, punishable at common law, scoffingly or irreverently to ridicule or impugn the doctrines of the Christian faith ; but any man may, without subjecting himself to any penal consequences, soberly and reverently examine and question the truth of those doctrines which have been assumed as essential to it (*Shore* v. *Wilson*, 9 Cl. & F. p. 524 ; *R.* v. *Carlisle*, 1 St. Tr. N. S. 1033). If the decencies of controversy are observed, it would seem that even the fundamental doctrines of religion may be attacked, without rendering the speaker guilty of blasphemy (*R.* v. *Ramsay & Foote*,

48 L. T. p. 739 ; *R.* v. *Bradlaugh*, 15 Cox C. C. 217 ; but see *Pankhurst* v. *Thompson*, 3 Times L. R. p. 200) ; it is the mischievous abuse of this state of intellectual liberty, and the wilful intention to pervert, insult, and mislead others, by means of licentious and contumelious abuse applied to sacred subjects, or by wilful misrepresentations or artful sophistry calculated to mislead the ignorant and unwary, which constitute blasphemy (*R.* v. *Ramsay & Foote*, 48 L. T. p. 736 ; *R.* v. *Bradlaugh*, 15 Cox C. C. 217). And it is actionable, maliciously to assert in a speech that another person has been guilty of the crime of blasphemy (*Pankhurst* v. *Hamilton*, 3 Times L. R. 500 ; *Pankhurst* v. *Sowler*, *ib.* 193).

Seditious words.

Again, a speaker must not use seditious words, or be guilty of sedition. Seditious words may be defined as any words which tend to bring into hatred or contempt the sovereign, the constitution of the realm, or the Houses of Parliament, or to excite the Queen's subjects to attempt the alteration of any matter in church or state as by law established, otherwise than by lawful means (60 Geo. III. & 1 Geo. IV. c. 8, s. 1). To utter any such words is a misdemeanour, subjecting the offender to fine and imprisonment (see *R.* v. *Winterbotham*, 22 Howell's St. Tr. 823, 875 ; *R.* v. *Cork, Justices of*, 15 Cox C. C. 149) ; and even if the circumstances do not call for severe punishment, a person guilty of this offence may be required to find sureties for his good behaviour (*ex parte Seymour* v. *Davitt*, 15 Cox C. C. 242 ; 12 Ir. L. R. 46).

It is sedition to speak words defamatory of the sovereign, of either House of Parliament, or subversive of law and order, with intent to produce public disorder, or to foment or promote rebellion (60 Geo. III. & 1 Geo. IV. c. 8, s. 1 ; and see *R.* v. *Collins*, 9 C. & P. 456 ;

398142

CHAP. IV.

R. v. *Burdett*, 1 St. Tr. N. S. 1; *R.* v. *Burns*, 16 Cox C. C. 355). But there is no sedition in criticising or censuring the servants of the crown, or the administration of the law, or in seeking redress of grievances, or in the fair discussion of all party questions, if no corrupt or malicious motives are imputed (*R.* v. *Sullivan*, 11 Cox C. C. 44), and if such discussions are conducted in a calm, quiet, and temperate manner (*R.* v. *Collins*, 9 C. & P. 461). "The people have a right to discuss any grievances they may have to complain of, but must not do it in a way to excite tumult" (*ib.*).

Words amounting to contempt of court.

It is a contempt and misdemeanour to speak words defamatory of any superior court of justice, or of the administration of justice, with intent to obstruct and invalidate its proceedings, to annoy its officers, to diminish its authority and dignity, and to lower it in public esteem; and such contempts are punishable summarily by the court itself with fine and imprisonment as well as by indictment (*R.* v. *Gordon, Lord George*, 22 Howell's St. Tr. 175; *R.* v. *Jeff*, 15 Vin. Abr. 89; *R.* v. *Hart & White*, 30 Howell's St. Tr. 1131, 1194). But there is no contempt in just criticism on the administration of the law; and a speaker may fairly and freely criticise the proceedings of courts of justice and of individual judges, if he do so after the case is over, and without malignity, without imputing corrupt or malicious motives (*R.* v. *Sullivan*, 11 Cox C. C. 44), and without seeking to bring into hatred and contempt the administration of justice (*R.* v. *White*, 1 Camp. 359 *n*).

REPORTS.

Newspaper reports of public meetings.

A fair and accurate report in a newspaper of the proceedings of a public meeting, if made and published without malice, and not containing anything blasphemous (see *ante*, p. 36), seditious (see *ante*, p. 37), or indecent, is, *primâ facie*, privileged; but the meeting must have been *bonâ fide* and lawfully held, for a lawful purpose,

and for the furtherance or discussion of a matter of public concern, the publication must be for the public benefit, and the editor or proprietor must, if requested, insert in his newspaper in which the report complained of appeared, a reasonable letter or statement by way of contradiction or explanation of such report, otherwise all privilege is lost (51 & 52 Vict. c. 64, s. 4; and see *Pankhurst* v. *Sowler*, 3 Times L. R. 193; *Pittard* v. *Oliver*, 1891, 1 Q. B. 474). The publication of blasphemous, seditious, and indecent matter cannot be for the public benefit, and cannot therefore, under any circumstances, be justified (*R.* v. *Duffy*, 9 Ir. L. R. 329; *ex parte O'Brien*, 15 Cox C. C. 180).

Libellous comments.

A public newspaper may comment upon, and discuss in a fair and *bonâ fide* manner, the public conduct of the candidates, their agents, and prominent supporters, and all matters of local interest arising during the contest; and such comments, though unfavourable, are privileged, and do not amount to a libel. But the distinction cannot be too clearly borne in mind between mere comment (or criticism) and allegation of fact, such as that disgraceful acts have been committed, or discreditable language used (*Davis* v. *Shepstone*, 11 App. Cas. 190). It is is one thing to comment upon or criticise, even with severity, the acknowledged or proved acts of a public man, and quite another to assert that he has been guilty of particular acts of misconduct (*ib.*).

Imputations of corrupt conduct.

Thus, it is libellous to impute to a solicitor disgraceful conduct in having at an election disclosed confidential communications made to him professionally (*Moore* v. *Terrell*, 4 B. & Ad. 870); and, though a newspaper may comment on the fact that corrupt practices extensively prevailed at a recent election, it is not privileged in imputing that a specified individual has been guilty of a particular corrupt practice (*Wilson* v. *Reed*, 2 F. & F.

CHAP. IV.

149 ; *Dickeson* v. *Hilliard*, L. R. 9 Exch. 79). A public writer may comment on the distribution of government patronage, and may criticise the fitness of any person to be a member of parliament ; but he may not assert that there had been a corrupt promise or understanding that such person would receive an appointment, or be otherwise rewarded if he always voted according to order (*Seymour* v. *Butterworth*, 3 F. & F. 372). The political address of a candidate, and the conduct of persons attending an election meeting, are fair subjects for *bonâ fide* discussion, and unfavourable comments upon such address or conduct are privileged (*Davis* v. *Duncan*, L. R. 9 C. P. 396) ; and so is the public career, but not the private life or circumstances, of any candidate (*Duncombe* v. *Daniell*, 8 C. & P. 222). And a public man who calls attention to alleged grievances by speeches at public meetings or otherwise, must be prepared to tolerate ridicule, caricaturing, and sneering in a public newspaper ; and to have his assertions controverted, and his alleged grievances held up to public derision and condemnation (*Odger* v. *Mortimer*, 28 L. T. 472).

Newsvendor of libellous newspapers.

A newsvendor is not liable for selling a newspaper containing a libel, if he sold it in the ordinary course of his business, did not know that it contained a libel, if his ignorance was not due to any negligence on his part, and he had no ground for supposing that the newspaper was likely to contain libellous matter (*Emmens* v. *Pottle*, 1 Cab. & E. 553 ; 16 Q. B. D. 354).

CHAPTER V.

BRINGING VOTERS TO THE POLL.

	PAGE
Illegal hiring, to let, borrow, etc., carriages, etc. . .	41
Illegal practice, to pay, etc., for voters' conveyance .	42
Difference between the two sections and offences .	„
Voters may be conveyed in borrowed conveyances .	43
Exemption from licence duty.	44
An elector may pay for his own conveyance to the poll	„
So may several electors at their joint cost . . .	45
Exemption from turnpike toll in county elections.	„
Conveyance of voters by sea in certain county elections.	„
Relief from consequences of illegal practice or hiring	46
Prohibited or disqualified voters should not be brought up to vote . .	„

Illegal hiring, to let, borrow, etc., carriages, etc.

THE statutes which formerly permitted payment for the conveyance of voters to or from the poll (viz., 21 & 22 Vict. c. 87, s. 1 ; 30 & 31 Vict. 102, s. 36 ; 43 Vict. c. 18, s, 2) have all been repealed (C. I. P. P. A. s. 66), and it is now an illegal hiring to—

1. *Let or hire*,
2. *Lend or borrow*,
3. *Employ or use*,

for the purpose of conveying electors to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which a person keeps or uses for the purpose of letting out for hire (C. I. P. P. A.

CHAP. V.

s. 14, subs. 1, 2). It will be observed that this provision does not include ships, barges, or boats (cp. C. I. P. P. A. s. 7, *infra*). The offence of illegal hiring becomes an illegal practice when committed by the candidate or election agent (*ib.* s. 21, sub. 2), and when so committed the election may be set aside (*ib.* s. 11); but a person who hires, borrows, or uses, for the purpose of conveying electors to or from the poll, a prohibited carriage, horse, or animal, is not guilty of an illegal hiring, unless he knows that its owner is prohibited by the statute from letting, lending, or employing, the same for that purpose (*ib.* s. 14, sub. 2; and see *Buckrose*, 4 O'M. & H. 117). As to the punishment for an illegal hiring, see *post*, p. 57.

Illegal practice to pay, etc., for voters' conveyance.

It is also an illegal practice to *pay* or *contract to pay*, and knowingly to *receive payment* or *be party to any contract for payment*, for the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise (C. I. P. P. A. s. 7, subs. 1 *a*, 2); and if the offender be an agent of the candidate the election may be set aside (*ib.* s. 11). It is thus an illegal practice to pay, or receive payment, or to contract for payment, for the conveyance of voters to or from the poll, whether by horses or carriages, railway fares or passes, ferry or other boats, steamers, sailing ships, "or otherwise." The only exception is that voters may be conveyed to the poll across the sea in certain county elections, as to which see *post*, p. 45. "Payment" includes pecuniary reward, valuable security, or consideration (C. I. P. P. A. s. 64); and thus includes refreshment (*Barrow-in-Furness*, 4 O'M. & H. 78). As to the punishment for and incapacities arising by reason of an illegal practice, see *post*, p. 52.

Difference between the two sections

The material difference between the two sections of the C. I. P. P. A. (s. 14, subs. 1, 2, and s. 7, sub. 1 *a*)—the offence of illegal letting or hiring under the latter

being an illegal practice by whomsoever committed, while under the former it is an illegal payment merely, unless the offender be the election agent—naturally invites all parties concerned to endeavour to bring any particular case of letting or hiring within the section (s. 14) which carries with it the lesser punishment and does not avoid the election. The earlier section (s. 7) is more general in its terms than the later section (s. 14), and, therefore, in accordance with the rule that where a general intention is expressed, and the Act also expresses a particular intention incompatible with the general intention, the particular intention is to be considered in the nature of an exception (*Churchill* v. *Crease*, 5 Bing. 180; and see *Pretty* v. *Solly*, 26 Beav. 610), and with the further rule that an earlier passage gives way to a later (Maxwell, 46), any case that falls within s. 14 must, it is submitted, be considered as excepted from s. 7. It may possibly be held that the penalties under the two sections are cumulative; but the better construction seems to be that the later section of the Act (s. 14) qualifies the earlier, and takes the persons therein specifically dealt with out of the general words of the earlier section (s. 7).

and offences.

Voters may be conveyed in borrowed conveyances.

There is nothing to prevent the conveyance of voters to or from the poll in carriages, steam-vessels, ships, barges or boats, or on horses or other animals, lent gratuitously for the purpose, provided that the same be not kept or used for the purpose of letting out on hire (C. I. P. P. A. s. 14, subs. 1, 2, *ante*, p. 41). Nor is the employment of the person in charge of the borrowed carriage, steam-vessel, etc., an illegal employment, if his payment or remuneration is made by the owner of the carriage, etc., and not by the election agent.

The lending must be perfectly *bonâ fide* and not upon any understanding, express or implied, that the lender is to receive any reward, valuable security or payment.

CHAP. V.

Under no pretence must any payment, gift, offer, or promise, either in money or kind, be made by, or on behalf of, the candidate or his election agent to the coachman or driver, nor must any person be hired or paid to drive a borrowed vehicle.

The object for which a horse, carriage, etc., is kept in non-election times seems to govern its loan and use in election times; and the prohibition appears to be directed against the employment of vehicles, etc., ordinarily hired for the conveyance of *passengers* rather than of goods or merchandise. A livery-stable keeper cannot lend a single carriage or horse, nor can he use his own carriage or horse to convey his own friends to or from the poll. A carriage or horse which a person keeps and generally uses for his own trade or pleasure, but which he sometimes lets out for hire, may probably be lent and used, and so also a carriage or horse hired on job and not for the occasion. Farmers, tradesmen, and others may safely lend or use the carts, traps, waggons, horses, etc., which they keep for the purposes of their trade, even though they hire on the poll-day other vehicles to replace those so lent or used; but any cart, trap, horse, etc., which is kept for the express purpose of being let out for the conveyance of passengers, although the owner occasionally uses it for his own purposes, is clearly prohibited. A spring van or cart intended and used for the conveyance of goods or removal of furniture, and only occasionally used for the conveyance of pleasure parties, may perhaps also be lent or used.

Exemption from licence duty.

Persons are not liable to pay any duty, or to take out a licence for any carriage, by reason only of such carriage being used, without payment or promise of payment, for the conveyance of voters to or from the poll (C. I. P. P. A. s. 14, sub. 4).

An elector may pay

The C. I. P. P. A. expressly permits a carriage, horse

or other animal being let to, or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of being conveyed to or from the poll (C. I. P. P. A. s. 14, sub. 3). An elector may therefore pay for his own conveyance in a public stage or hackney carriage (a coach, omnibus or cab), or on horseback, or by railway, to or from the poll, and so may several electors at their several or joint cost—though he or they are not expressly authorized to hire a boat, or any sea or river-going craft, for the same purpose. There is no definition of the term "joint cost," and if two electors hire and proceed to or from the poll in a hackney carriage, and one of them only pays the whole fare, it would seem that the two electors, and also the owner of the carriage, if he knew of the purpose for which it was hired (see *Buckrose*, 4 O'M. & H. 117), are each and all guilty of an illegal hiring. If each contribute something, but one pay the substantial part of the whole fare, they are probably each similarly guilty. But if one elector *bonâ fide* hire a hackney carriage to convey himself to or from the poll, and on his way pick up another elector and give him a seat in the carriage, without requiring him to pay his share of the cost, it seems doubtful whether either elector, or the owner of the carriage, be guilty of an illegal hiring, as the original hiring of the carriage was lawful, and the case does not fall within the words of the prohibition.

for his own conveyance to the poll.

So may several electors at their joint cost.

Voters going to and returning from the poll in a county election, are exempt from toll on turnpike roads situate within the county for which the election is held (3 Geo. IV. c. 126, s. 32).

Exemption from turnpike toll in county elections.

Where the nature of a county is such that any electors residing therein are unable, at an election for such county, to reach their polling place without crossing the sea, or a branch or arm thereof, the Act does not prevent the

Conveyance of voters by sea in certain

CHAP. V.

county elections.

provision of means for conveying such electors by sea to their polling place, and the payment for such means of conveyance is a lawful expense (see C. I. P. P. A. s. 48). This enactment is intended to meet the case of electors separated by the sea from their polling places by being resident on islands, or on the other side of inlets or arms of the sea. It only applies in a county election, and to voters residing within the county, and not to out-voters. Apparently, also, it applies only to so much of the journey as is performed by sea, and not to any part that takes place on land, or across an inland lake, nor to the return from the poll. The mouth of a navigable river, which cannot be shewn to be "a branch or arm of the sea," is not within the enactment.

As to when the payment of travelling expenses amounts to bribery, see 'Election Agent,' p. 388.

Relief from consequences of illegal practice or hiring.

Relief in respect of any offence against the statutory provisions discussed in this chapter will, apparently, not be granted, unless under very special circumstances (*Chelsea*, 2 Times L. R. 374).

Prohibited or disqualified voters should not be brought up to vote.

Great care must be taken not to bring up any voter who is prohibited by statute from voting. Any person who brings up a voter, knowing that such voter is so prohibited, and who thereby induces or procures such voter to vote, is guilty of an illegal practice (C. I. P. P. A. s. 9, sub. 1). And the voter who votes, knowing that he is prohibited by statute from voting, is similarly guilty (*ib.*).

The consideration of who are qualified, and who are disqualified, voters is dealt with in the 'Election Agent,' Chap. XXIII., p. 340. It is sufficient here to state that the following electors are prohibited by statute from voting: viz., an infant, an unpardoned felon, persons guilty of corrupt or illegal practices, a paid election agent, sub-agent, polling agent, clerk, or messenger, and

any person whose name is not on the register for the time being in force for the election. Aliens and peers are prohibited by the common law from voting, but, if, on the register, they may be brought up to vote, and the validity of the vote can be determined afterwards on a scrutiny. A deaf or dumb, a childish or infirm person, a lunatic or drunkard, who is on the register, may be brought up to vote if he can satisfy the tests stated, 'Election Agent,' pp. 354, 351 ; but it seems useless to attempt to poll an idiot, or a woman, even though on the register. A blind person, or one who from other physical cause cannot mark a ballot paper, gives his vote through the presiding officer (see B. A. r. 26).

CHAPTER VI.

CORRUPT PRACTICES.

	PAGE		PAGE
Definition	48	*Undue influence* . . .	49
Bribery	„	*Personation*	50
Treating	49		

It is not to be supposed that any volunteer assistant will sanction, far less participate in, any corrupt practice; but that he may appreciate the dangers he has to avoid, it seems desirable to deal shortly with the subject. For more detailed information, the reader is referred to any of the well-known text-books.

Definition. Corrupt practices comprise bribery, treating, undue influence, personation, and the aiding, abetting, counselling, and procuring of personation (C. I. P. P. A. s. 3).

Bribery. Bribery may be shortly defined as the direct or indirect gift, loan, offer, or promise or procurement, before, during, or after an election, of any money, valuable consideration, office, place, or employment, to or for any voter, in order to induce such voter to vote, or to refrain from voting, or because he has voted or refrained from voting, for any person, or because he has procured, or endeavoured to procure, the return of any person to parliament, or the vote of any voter (17 & 18 Vict. c. 102, s. 2). The essence of a bribe is its corrupt intention, and if that be proved, the amount of the bribe is immaterial, even though the act be isolated and

insignificant. The recipient of the bribe is guilty of bribery as well as the briber (17 & 18 Vict. c. 102, s. 3; C. I. P. P. A. s. 66). A mere offer, or promise, of a bribe, a loan as distinguished from an absolute gift, may be a bribe, and it matters not how long before the election the bribe be given, if it be operative on the person bribed at the time of the election. See further hereon 'Election Agent,' p. 380.

Treating. Treating may be shortly defined as the direct or indirect, corrupt gift or provision, before, during, or after an election, of meat or drink to any person, for the purpose of corruptly influencing any person to give or refrain from giving his vote, or on account of his having voted or refrained from voting at an election (C. I. P. P. A. s. 1). The elector who corruptly accepts the same is also guilty of treating (*ib.*). The corrupt intent is of the very essence of the offence; treating *before* the election must be operative on the elector at the time he votes or is expected to vote, and treating *after* the election must be for the purpose of rewarding the voter for having voted in a particular way, or in pursuance of a previous corrupt understanding or agreement. But mere hospitality, unaccompanied by any corrupt motive, is not treating. See further hereon 'Election Agent,' p. 406.

Undue influence. Undue influence may be shortly defined as the direct or indirect use or threat of force, violence, or restraint, or the infliction or threat of temporal or spiritual injury, damage, harm, or loss, upon or against any person, to induce or compel such person, to vote or refrain from voting, or on account of such person having voted or refrained from voting, at an election, or the impeding or preventing of the free exercise of the franchise by abduction, duress, or any fraudulent device or contrivance (C. I. P. P. A. s. 2). Influence to be undue must be

CHAP. VI.

corrupt, but the threat or attempt is an offence equally with the actual act. See further hereon 'Election Agent,' p. 423.

Personation.

Personation is the application for a ballot paper in the name of some other person, or the application in the applicant's own name after having already voted at the same election (B. A. s. 24). The aiding, abetting, counselling, or procuring the commission of personation is also personation (C. I. P. P. A. s. 3). The offence must be knowingly and wilfully committed, and with a corrupt mind and intention; an innocent or *bonâ fide*, though erroneous, application for a ballot paper is not personation. See further hereon 'Election Agent,' p. 434.

CHAPTER VII.

ILLEGAL PRACTICES, PAYMENT, EMPLOYMENT, AND HIRING.

I. ILLEGAL PRACTICES.

PAGE

Definition of illegal practice, and its consequences . 52

Definition of "payment," "pecuniary reward," and "money" . . . 53

Definition of "person". . „

ILLEGAL PRACTICES BY CANDIDATE OR ANY AGENT „

1—3. *Payments or contracts for payments for :—*

1. *Conveyance of voters to or from the poll* . 54

2. *Exhibition of addresses, notices, etc.* „

3. *Committee rooms in excess of number allowed* . . . . „

4. *Payment, etc., of election expenses, otherwise than through the election agent* . . . . . „

5. *Payment of money provided for election expenses, otherwise than to the candidate or election agent* 55

PAGE

ILLEGAL PRACTICES BY CANDIDATE OR ELECTION AGENT 55

1. *Paying expenses in excess of maximum* . „

2. *Voting, or procuring votes, when prohibited* . „

3. *Publishing false statement of candidate's withdrawal* . . . . „

4. *Printing, etc., election placards, etc., without printer's, etc., name, etc.* „

5—10. *Being guilty of an illegal payment, etc.* 55–6

11. *Failing to make return or declaration as to election expenses* . . . 56

ILLEGAL PRACTICES BY ELECTION AGENT . . „

1. *Paying claims not sent in to election agent, or sent in after time* . . „

2. *Paying election expenses after time* . . . „

ILLEGAL PRACTICES BY WHOMSOEVER COMMITTED . . . . . „

CHAP. VII.

II. ILLEGAL PAYMENT, EMPLOYMENT, AND HIRING.

	PAGE
Definition and consequences	57
ILLEGAL PAYMENTS . . .	„
1. *Providing money for illegal payments* . .	„
2. *Corrupt withdrawal of candidate*	„
3. *Paying, etc., for music, torches, flags, etc.* . .	„
ILLEGAL EMPLOYMENT . .	58
1. *Employing, etc., persons for unauthorized purposes or remuneration* .	„
ILLEGAL HIRING	59
1. *Letting, etc., hackney carriages, etc., to convey electors to the poll* . .	„
2. *Hiring, etc., prohibited premises for committee room*	„
UNCLASSIFIED OFFENCES .	„
Printing, etc., election placard, etc., without printer's, etc., name, etc.	„
Giving, etc., cockades, etc.	„

I. ILLEGAL PRACTICES.

Definition of illegal practice and its consequences.

AN illegal practice is an offence created by the Act of 1883. Some acts are illegal practices when committed by any agent or person whomsoever; some are so only when committed by the candidate or his election agent; and some are so only when committed by the election agent. As regards the seat, some illegal practices avoid the election if committed by the candidate or any of his agents (C. I. P. P. A. s. 11), but others have this effect only when committed by the candidate or his election agent (*ib.* ss. 9, 21), and of the latter, some payments by the election agent which amount to illegal practices, do not avoid the seat if the election court reports that the payment was without the sanction or connivance of the candidate (*ib.* s. 29, sub. 6). As regards the offender, his vote is, *ipso facto*, void (*ib.* s. 36), and a conviction renders him liable to a fine of £100, and incapacitates him for five years from voting at any election held for or within the county or borough in which the illegal practice has been committed (*ib.* s. 10). As regards the

eligibility to parliament, if the election judges report that the illegal practice was committed by or *with the knowledge and consent of the candidate*, he is ineligible for the county or borough for seven years next after the date of the report; and if the report is that the illegal practice was committed *by the candidate's agents*, the candidate is ineligible for the county or borough during the parliament for which the election was held (C. I. P. P. A. s. 11). As to relief against the consequences of the illegal practice, see 'Election Agent,' p. 483.

Definition of "payment," "pecuniary reward," and "money."

In considering the subjects of illegal practices, and of illegal payment, employment or hiring, it must be carefully borne in mind that the expression "payment" includes any pecuniary or other reward; that the expressions "pecuniary reward" and "money," include any office, place, or employment, and any valuable security or other equivalent for money, and any valuable consideration (C. I. P. P. A. s. 64); and that refreshment, for example, being money's worth, is equivalent to payment (*Barrow-in-Furness*, 4 O'M. & H. 78). Also, that the expression "person" includes an association or body of persons, corporate or unincorporate, and that where any act is done by any such association or body, the members of such association or body, who have taken part in the commission of such act, are liable to any fine or punishment imposed for the same by the Act (C. I. P. P. A. s. 64). The knowledge which the offender must possess is a knowledge of the facts which constitute the offence; *e.g.* he must be fixed with knowledge of all facts which constitute a conveyance a public stage or hackney carriage (*ib.* s. 14), and that established, the presumption as to knowledge of the law will apply and bring the case within the Act.

Definition of "person."

ILLEGAL PRACTICES BY CANDI-

The acts which are illegal practices, avoiding the election, if committed by the candidate or any of his

CHAP. VII.

DATE OR ANY AGENT.

agents (C. I. P. P. A. s. 11), are five in number, viz. :—

Payments, or contracts for payment for :—

1, 2 & 3. Any payment, or contract for payment, knowingly made in contravention of the Act, or the receiving any payment, or being party to any contract, with the like knowledge, on account of :—

1. Conveyance of voters to or from the poll.

(*a*.) The conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise (C. I. P. P. A. s. 7, sub. 1 (*a*) and sub. 2, and see *ante*, p. 42).

2. Exhibition of addresses, notices, etc.

(*b*.) The use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice, the recipient, or party to the contract, being an elector, and not an advertising agent receiving such payment or making such contract in the ordinary course of his business (C. I. P. P. A. s. 7, sub. 1 (*b*), subs. 2, 3).

3. Committee rooms in excess of number allowed.

(*c*.) Any committee room in excess of the number allowed by the Act (C. I. P. P. A. s. 7, sub. 1 (*c*), sub. 2, and see *ante*, p. 23).

4. Payment, etc., of election expenses, otherwise than through the election agent.

4. Any payment, advance, or deposit, on account of or for expenses incurred in respect of the conduct or management of the election (not being security to, or payments by, a returning officer, and not being petty expenses legally incurred by, and not repaid to, the person paying), made by a candidate, or any agent on his behalf, or any other person, at any time, whether before, during, or after the election, otherwise than through the election agent (C. I. P. P. A. s. 28). Any such payment for any such expense, by whomsoever incurred, and whether for a legal or an illegal expense, is an illegal practice within this section (see *Ipswich*,

4 O'M. & H. 72 ; *Norwich*, *ib.* 89 ; *Buckrose*, *ib.* 116). A *bonâ fide* gift, prompted by friendship or gratitude, especially if it be in kind and not in money, is probably unobjectionable, and no infringement either of the spirit or the letter of the Act (see C. I. P. P. A. ss. 17, 28, 33, and see the candidate's declaration as to expenses, *ib.* sch. II. pt. I).

5. Payment of money provided for election expenses, otherwise than to the candidate or election agent.

5. The payment to any person, other than the candidate or his election agent, of any money provided for election expenses (not being security to, or payments by, a returning officer, and not being petty expenses legally incurred by, and not repaid to, the person paying), by any person, association, or body of persons, corporate or unincorporate (C. I. P. P. A. s. 64), other than the candidate (*ib.* s. 28).

ILLEGAL PRACTICES BY CANDIDATE OR ELECTION AGENT.

The acts which are illegal practices when committed by the candidate or his election agent, and which avoid the election (C. I. P. P. A. s. 11), are eleven in number, viz. :—

1. Paying expenses in excess of maximum.

1. Knowingly paying for, or incurring, any election expense in excess of the maximum amount allowed (C. I. P. P. A. s. 8, subs. 1, 2).

2. Voting, or procuring votes, when prohibited.

2. Voting when prohibited by statute, or knowingly inducing, or procuring, any person to vote who is so prohibited from voting (C. I. P. P. A. s. 9, subs. 1, 3).

3. Publishing false statement of candidate's withdrawal.

3. Knowingly publishing a false statement of the withdrawal of a candidate, for the purpose of promoting or procuring the election of another candidate (C. I. P. P. A. s. 9, subs. 2, 3).

4. Printing, etc., election placards, etc., without

4. Printing, publishing, or posting, or causing to be printed, published, or posted, any bill, placard, or poster, having reference to an election, which does not bear upon its face the name and address of the printer and publisher (C. I. P. P. A. s. 18).

5—10. Being personally guilty of an offence of illegal

CHAP. VII.

printer's etc., name, etc.

5–10. Being guilty of an illegal payment, etc.

11. Failing to make return or declaration as to election expenses.

payment, employment, or hiring (C. I. P. P. A. s. 21, sub. 2).

11. Failing, without authorised excuse, to comply with the provisions of the Act as to the return and declarations respecting election expenses (C. I. P. P. A. s. 33, sub. 6 ; *Buckrose*, 4 O'M. & H. 117).

The two following acts are, by the terms of the respective sub-sections, illegal practices only when committed by the election agent. They avoid the election (C. I. P. P. A. s. 11), unless it be shewn to the court that the payment was made without the sanction or connivance of the candidate (*ib.* s. 29, sub. 6), or that the payment arose from inadvertence, accidental miscalculation, or other reasonable cause of a like nature, and not from want of good faith, and the court should think it just to grant relief (*ib.* s. 23).

ILLEGAL PRACTICES BY ELECTION AGENT.

1. Paying claims not sent in to election agent, or sent in after time.

1. Paying, without a judgment or order of a competent court, or leave of the High Court first obtained, any claim for an election expense which is not sent in to the election agent, or is sent in to him after the time limited for sending in claims (C. I. P. P. A. s. 29, subs. 2, 8, 9).

2. Paying election expenses after time.

2. Paying, without such leave, any election expenses after the time limited for paying such expenses (C. I. P. P. A. s. 29, sub. 4).

ILLEGAL PRACTICES BY WHOMSOEVER COMMITTED.

The acts which are illegal practices *ab initio*, and by whomsoever committed, and which render the offender liable to the fine and incapacities above mentioned (p. 52), are seven in number, viz. :—

1—5. The five offences mentioned under the first heading of "Illegal practices by candidate or any agent" (*ante*, p. 53).

6, 7. The second and third offences mentioned under the second heading of "Illegal practices by candidate or election agent" (*ante*, p. 55).

Definition and consequences.

An illegal payment, employment, or hiring is also an offence which has mainly been created by the Act of 1883. It does not avoid the election, unless the offender is the candidate, or his election agent or sub-agent, in which case it becomes an illegal practice (C. I. P. P. A. s. 21, sub. 2), and, as such, avoids the seat (*ib.* s. 11). It avoids the vote (*ib.* s. 36), and renders the offender liable to a fine of £100 (*ib.* s. 21, sub. 1; and see further as to this fine, 'Election Agent,' p. 472); but does not affect his franchise or eligibility to parliament.

ILLEGAL PAYMENTS.

The following are illegal payments;—

1. Providing money for illegal payments.

1. Knowingly providing money for any payment prohibited by the Act, or in excess of the maximum amount allowed, or for replacing any money so expended, except where the same may have been previously allowed by the High Court to be an exception from the Act (C. I. P. P. A. ss. 13, 23).

2. Corrupt withdrawal of candidate.

2. Corruptly inducing, or procuring, any candidate to withdraw in consideration of any payment or promise of payment, and the withdrawing of any candidate in pursuance of any such inducement or procurement (C. I. P. P. A. s. 15).

3. Paying, etc., for music, torches, flags, etc.

3. Making, or knowingly receiving, a payment, or making or knowingly being party to a contract for payment, for the purpose of procuring or promoting a candidate's election, for bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction, unless an exception be allowed (C. I. P .P. A. s. 16, subs. 1, 2; and see s. 19).

The giving or providing by a candidate or any agent of *cockades*, *ribbons*, or other *marks of distinction* subjects the offender to a penalty (see 17 & 18 Vict. c. 102, s. 7,

CHAP. VII.

and *post*, p. 59) ; but the giving or providing by any person of *music*, *torches*, *flags*, or *banners* is not illegal if no payment or contract for payment (see C. I. P. P. A. s. 16, *supra*), be made ; and thus a gift or gratuitous provision thereof for the purpose of the election is permissible. The *wearing* of a cockade, ribbon, flower, or other mark of distinction is not illegal, but the wearer must provide it for himself. The *playing of a band of music*, or of a single musical instrument, the *exhibition of a torch*, *flag*, *or banner*, and the *lending* of one or several musical instruments, torches, flags, or banners, is also not illegal, if the person possesses same, or manufactures same himself, and if no payment or contract for payment in respect thereof be made. The expense of repairing a roof, which had been damaged by a rope from which an election banner was displayed, has been held not to be a payment on account of a banner within C. I. P. P. A. s. 16 (*Stepney*, 4 O'M. & H. 39).

ILLEGAL EMPLOYMENT.

The following is an illegal employment :—

1. Employing, etc., persons, for unauthorized purposes or remuneration.

1. Engaging or employing for payment or promise of payment, any person, or being so engaged or employed, knowing that the same is contrary to law, for the purpose of promoting or procuring the election of a candidate, in any capacity whatever, except those authorized by the Act, and except so far as payment is authorized by the Act, and subject to any exception that may be allowed (C. I. P. P. A. ss. 17, 23, and see *Stepney*, 4 O'M. & H. 52). "A person so engaged could not relieve himself from the consequences by merely pleading ignorance of the law ; he would have to shew that he was ignorant of the facts which made his engagement unlawful" (Gorst, 39). An offer of refreshment to volunteer workers, if accepted and acted upon by them, is an engagement or employment, and the refreshment so

promised or given is payment within the above section (*Barrow-in-Furness*, 4 O'M. & H. 78).

The following are illegal hirings :—

ILLEGAL HIRING.

1. Knowingly letting or hiring, lending or borrowing, employing or using, for the conveyance of electors to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal kept or used to let out for hire (C. I. P. P. A. s. 14, subs. 1, 2 ; *Buckrose*, 4 O'M & H. 117 ; and see *ante*, p. 41). But this does not extend to a carriage, horse, or other animal let to, or hired, employed, or used by an elector, or by several electors at their joint cost, for the purpose of his or their being conveyed to or from the poll (C. I. P. P. A. s. 14, sub. 3 ; and see *ante*, p. 44).

1. Letting, etc., hackney carriages, etc., to convey electors to the poll.

2. Hiring, or using as a committee room, any prohibited premises, and letting any such premises knowing that the same are to be so used (C. I. P. P. A. s. 20 ; *Buckrose*, 4 O'M. & H. 113, 114, 115 ; and see *ante*, p. 20).

2. Hiring, etc., prohibited premises for committee room.

UNCLASSIFIED OFFENCES.

The following offence subjects the offender (not being the candidate or his election agent), to a fine of £100 (C. I. P. P. A. s. 18), and, if committed by the candidate or his election agent, is an illegal practice (*ib.*). It is not (*ex parte De Wette*, 5 Times L. R. 173), possibly by an oversight, denominated an illegal payment, employment, or hiring :—

Printing, etc., election placard, etc., without printer's, etc., name, etc.

> Printing, publishing, or posting, or causing to be printed, published, or posted, any bill, placard, or poster having reference to an election, which does not bear upon its face the name and address of the printer and publisher (C. I. P. P. A. s. 18).

The following, when committed by a candidate or any agent, is also an offence against election law, and subjects

Giving, etc., cockades, etc.

CHAP. VII.

the offender to a penalty of £2, with full costs of suit (17 & 18 Vict. c. 102, s. 7), but it is not an offence created by the C. I. P. P. A., and is not an illegal practice, payment, employment, or hiring within the meaning of that Act :—

> Directly or indirectly giving or providing to any voter or inhabitant, any cockade, ribbon, or other mark of distinction (17 & 18 Vict. c. 102, s. 7 ; and see *Nottingham*, 1 O'M & H. 246). The word "inhabitant" includes the wives and children of voters.

See further as to this penalty, 'Election Agent,' p. 455, and as to the offence of paying or contracting for cockades, etc., see *ante*, p. 57.

PART II.

MUNICIPAL ELECTIONS.

CHAPTER VIII.

DIFFERENCES BETWEEN MUNICIPAL AND PARLIAMENTARY ELECTIONS.

	PAGE		PAGE
Application of Act . . .	61	*Places prohibited from use for meetings*	65
Canvassers	„	*Bands of music, flags, etc.* .	„
Committee rooms . . .	„	*Conveyance of voters* . .	„

Application of Act.

THE M. E. C. I. P. A. is a re-enactment with slight variances of the C. I. P. P. A. The different matters already discussed in considering a parliamentary election are therefore applicable to a municipal election, subject to the following special provisions and modifications.

Canvassers.

Paid canvassers were recognized by the first Act which was passed, dealing with corrupt practices at municipal elections (35 & 36 Vict. c. 60, s. 7), but that Act, and M. C. A. s. 82, which replaced it, prohibited paid canvassing by electors. This prohibition has now been made universal, in the same manner as in parliamentary elections (M. E. C. I. P. A. s. 13, sub. 1); and, except to the extent that canvassing can be undertaken by the paid clerks and messengers, canvassing must now be performed, if at all, by volunteers.

Committee rooms.

The expression "committee room" has the same

CHAP. VIII.

meaning in the M. E. C. I. P. A. as in the C. I. P. P. A. (M. E. C. I. P. A. s. 34), as to which, see *ante*, p. 20; but the section prohibiting the use of certain premises for committee rooms at municipal elections, differs from that relating to parliamentary elections. It is as follows :

16. (1.) (*a.*) Any premises which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises, or

(*b.*) Any premises where any intoxicating liquor is supplied to members of a club, society, or association, or any part of any such premises,

shall not, for the purpose of promoting or procuring the election of a candidate at a municipal election, be used either as a committee room or for holding a meeting, and if any person hires or uses any such premises or any part thereof in contravention of this section, he shall be guilty of illegal hiring, and the person letting or permitting the use of such premises or part thereof, if he knew it was intended to use the same in contravention of this section, shall also be guilty of illegal hiring.

(2.) Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

On comparing this with the corresponding provision governing parliamentary elections (C. I. P. P. A. s. 20), it will be observed that the former omits the exception of a permanent political club, and the prohibition of the use of a public elementary school, contained in the latter.

There being thus no permission, as there is at a parliamentary election, to use the premises of a permanent political club as a committee room, such premises cannot be so used, if they come within either subsection of M. E. C. I. P. A. s. 16. The premises of a club where tea, coffee and other non-intoxicant drinks only are *supplied* to members, are not within the prohibition contained in M. E. C. I. P. A. s. 16, sub. 1, *b*; but, if such drinks are "*sold* for consumption on the premises," such a club falls within the prohibition contained in sub. 1, *a*, of the same section.

It seems impossible to give any satisfactory reason for the change of language ("supplied" and "sold") in these two subsections. The change must have been intentional, but it is impossible to foresee what effect the courts will give to the difference in language, or to lay down any rule applicable to all cases that may arise. It is suggested, however, that subsection *b* is a limitation upon the generality of subsection *a*, and that consequently clubs are not prohibited from being used as committee rooms, except where they supply intoxicating liquors to members; also that subsection *b* may be looked upon as being to some extent repugnant to subsection *a*, and that thus, according to the ordinary canons of construction, the later of two repugnant provisions must prevail over the earlier. If so, a club where non-intoxicating drinks only are supplied is not a prohibited place. "Supplied" must, it is submitted, mean "supplied for payment," as clubs where intoxicating drink is supplied gratuitously, unless for a nefarious purpose, do not exist, and the word "supplied" is perhaps used instead of "sold" because it is used in conjunction with "members," while "sold" doubtless means sold to the public.

All licensed premises, refreshment houses, and clubs,

where food or drink is sold, are thus unavailable as committee rooms.

The premises of a public elementary school, not being prohibited from use as committee rooms as they are at a parliamentary election, may when obtainable, be used as committee rooms at a municipal election.

The hiring, or letting, or use of any of the above prohibited premises, or any part thereof, for a committee room is an illegal hiring (M. E. C. I. P. A. s. 16, sub. 1, *b*); and if the illegal hiring is by, or with the knowledge or consent of, the candidate, the election may be avoided (*ib.* s. 17, sub. 2, and s. 8, sub. 2). The hirer, and the person using, are equally guilty of an illegal hiring, and so also is the person letting, or permitting the use, if he knew it was intended to use the room as a committee room (*ib.* s. 16, sub. 1, *b*).

The number of committee rooms that may be hired for payment is less than in the case of a parliamentary election. At a municipal election there may be hired for payment one committee room for the borough or ward, and if the number of electors in such borough or ward exceeds 2,000, one additional committee room for every 2,000 electors, and incomplete part of 2,000 electors over and above the said 2,000 (M. E. C. I. P. A. s. 4, sub. 1, *c*). Thus, in a borough or ward of from 2,001 to 4,000 electors inclusive, two committee rooms may be hired for payment; in a borough or ward having 4,001 to 6,000 electors, three committee rooms may be hired for payment, and so on.

No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made on account of any committee room in excess of the number allowed (M. E. C. I. P. A. s. 4, sub. 1, *c*), under penalty of an illegal practice (*ib.* sub. 2), avoiding the election, if such

payment or contract has been made by the candidate or his agents (*ib.* s. 8, sub. 2).

Places prohibited from use for meetings.

All places prohibited from use as committee rooms (as to which see *ante*, p. 20) are equally prohibited from use for holding meetings for the purpose of promoting or procuring the election of a candidate at a municipal election (M. E. C. I. P. A. s. 16, sub. 1), whether such meetings be public or private. There is no such prohibition in parliamentary elections, and this thus constitutes a material restriction on the ability to hold meetings in support of a candidate at a municipal election. But the meeting must be a meeting held "for the purpose of promoting or procuring the election of a candidate" (*ib.*); as to what is such a meeting, see *ante*, p. 28.

Bands of music, flags, etc.

No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction (M. E. C. I. P. A. s. 12, sub. 1), under penalty of an illegal payment (*ib.* sub. 2), and of an illegal practice, if the offence be committed by the candidate, or with his knowledge and consent (*ib.* s. 17, sub. 2). The giving or providing of cockades, ribbons, or other marks of distinction is not illegal *per se*, as it is in a parliamentary election (see *ante*, p. 59), and the giving or providing of bands of music, torches, flags, or banners is also not illegal, if in either case no payment (pecuniary reward, valuable security or consideration, C. I. P. P. A. s. 64; M. E. C. I. P. A. s. 34), or contract for payment be made.

Conveyance of voters.

The provision of the M. E. C. I. P. A. defining the illegal hiring and illegal practice in respect to the conveyance of voters to or from the poll at a municipal

CHAP. VIII.

election (ss. 4, 10), are repetitions of those enacted with respect to parliamentary elections (see *ante*, pp. 41, 42); but there is no enactment permitting the conveyance of voters by sea as there is at parliamentary elections (*ante*, p. 45).

PART III.

COUNTY COUNCIL ELECTIONS.

CHAPTER IX.

SIMILARITY OF COUNTY COUNCIL AND MUNICIPAL ELECTIONS.

PAGE

Application of Act 67

Application of Act.

The M. E. C. I. P. A. is applied to the election of county councillors by L. G. A. s. 75 (see *ex parte Walker*, 22 Q. B. D. 384), and there are no variances affecting the subject matter of this Manual in the election of county councillors, or distinguishing that from the election of town councillors.

PART IV.

ELECTIONS OF LOCAL BOARDS, IMPROVEMENT COMMISSIONERS, POOR LAW GUARDIANS, AND SCHOOL BOARDS.

CHAPTER X.

DIFFERENCES BETWEEN THE ABOVE AND MUNICIPAL ELECTIONS.

	PAGE		PAGE
Application of Act . . .	68	*Offences as to voting papers*	69
Election meetings and committee rooms	„	*Election expenses* . . .	70

Application of Act.

The provisions of M. E. C. I. P. A. are applied to the above elections by s. 36, subject to the following :—

Election meetings and committee rooms.

Nothing shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate at any of the above-named elections in any licensed or other premises not situate in an urban sanitary district or in the metropolis (M. E. C. I. P. A. s. 36, sub. 1, *f*). Therefore, in the case of places not situate in an urban sanitary district or the metropolis, the provision in s. 16, prohibiting the use of licensed premises as a committee room, or for holding an election meeting, does not apply to the elections now under consideration. This exception is doubtless due to the difficulty there would be in many rural districts in obtaining the use of any other premises for holding meetings.

Offences as to voting papers.

When the poll at any of the above-named elections is taken by means of voting papers, such of the said provisions as relate to personation, disclosure of votes and conveyance of voters, shall not apply; but any offence in relation to voting papers, or to personation, or to voting at such election which is punishable on summary conviction (that is to say) the offences mentioned in the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 3, and in the Public Health Act 1875, (38 & 39 Vict. c. 55) sch. II. r. 69, shall, without prejudice to the punishment under such section and rule of a person guilty of such offence, be deemed to be an illegal practice within the meaning of the said provisions (M. E. C. I. P. A. s. 36, sub. 1 *g*). In school board elections the vote is taken by ballot and not by voting papers, and at such elections the above provision does not apply, but in the other above-named elections the voting is by voting papers.

Section 3 of the Poor Law Amendment Act, 1851, is as follows :—" If any person, pending or after the election of any guardian or guardians, shall wilfully, fraudulently, and with intent to affect the result of such election, commit any of the acts following : that is to say, fabricate in whole or in part, alter, deface, destroy, abstract, or purloin any . . . voting paper used therein, or personate any person entitled to vote at such election ; or falsely assume to act in the name or on the behalf of any person so entitled to vote ; or interrupt the distribution or collection of the voting papers ; or distribute or collect the same under a false pretence of being lawfully authorized to do so ; every such person so offending shall for every such offence be liable, upon conviction thereof before any two justices, to be imprisoned in the common gaol or house of correction for any period not exceeding three months, with or without hard labour."

CHAP. X.

Rule 69 of schedule II. of the Public Health Act, is as follows :—"Any person who fabricates in whole or in part, or alters, defaces, destroys, abstracts, or purloins any voting paper, or personates any person entitled to vote at any election, or falsely assumes to act in the name or on the behalf of any person so entitled to vote, or interferes with the delivery or collection of any voting papers, or delivers any voting paper under a false pretence of being lawfully authorized so to do, shall be liable to a penalty not exceeding £20, or, in the discretion of the court, to imprisonment, with or without hard labour, for any period not exceeding three months."

Election expenses.

The provisions of the M. E. C. I. P. A. which prohibit the payment of any sum, and the incurring of any expense by or on behalf of a candidate at an election, on account of, or in respect of, the conduct or management of the election, and those which relate to the maximum amount of election expenses, or the return or declaration respecting election expenses, shall not apply (M. E. C. I. P. A. s. 37). The provisions here referred to are those contained in ss. 5 and 21.

INDEX.

AGENT,
Committee may be, of candidate, 19.
Volunteers, when agents of candidate, 1.

ASSOCIATION, see POLITICAL ASSOCIATION.

BANDS OF MUSIC,
Contracts or payments for, illegal, 31, 57.
Gift or provision of, when not illegal, 31, 57.
Municipal elections, at, 65.

BANNERS, FLAGS, ETC.,
Contracts and payments for, illegal, 31, 57.
Gift or provision of, when not illegal, 31, 57.
Exhibition of, when not illegal, 58.
Municipal elections, at, 65.
Seizure of, by police, at illegal meetings, 31.

BILLS, PLACARDS AND POSTERS,
Name, etc., of printer, etc., must appear thereon, 55, 59.
Use of house belonging to elector, for exhibition of, 54.

BRIBERY,
Definition, 48.

BRINGING VOTERS TO THE POLL,
Illegal hiring, to let, borrow, etc., carriages, etc., 41.
Illegal practice, to pay, etc., for voters' conveyance, 42.
Difference between the two sections and offences, 42.
Voters may be conveyed in borrowed carriages, 43.
Not being carriages kept for hire, 42.
Exemption from license duty, 44.
And from turnpike toll in county elections, 45.

BRINGING VOTERS TO THE POLL—*continued.*
Disqualified, should not be brought up, 46.
Voter may pay for his own conveyance, 44.
So may several voters at their joint cost, 45.
Conveyance of voters by sea in certain county elections, 45.
Municipal elections, at, 65.

CANVASSERS AND CANVASSING,
Definitions, 8.
Paid canvassing prohibited, 8.
Persons disqualified as canvassers, 9.
Dangerous practices in canvassing, 16.
Payments which volunteer canvassers may make, 15.
Political club, acting independently, cannot canvass, 4.
Canvass book, and form, 10.
Expense of, prepared beforehand by registration agent, 15.
Daily return sheets, 14.
Employment of scheduled person as canvasser avoids election, 9.
Expenses of, 14.
Peers, etc., may not canvass, 9.
Canvassing by post, 17.
Undue influence, canvasser must avoid, 16.
Municipal election, canvassing at, prohibited, 61.

COMMITTEE. And see COMMITTEE ROOM.
Definition, 18.
Committee-men may be held to be agents, 19.
Illegal committees, 19.
Vigilance committees, 19.

COMMITTEE ROOM. And see COMMITTEE.
Definition, 20.
Places prohibited as committee rooms, 20.
Hiring or using a prohibited place is an illegal hiring, 23.
Number allowed, 23; at municipal elections, 64.
Payment for rooms in excess of, is an illegal practice, 54.
Rooms lent gratuitously, 25.
Position of committee rooms, 25.
Hiring and agreement, 24; form of agreement, 24.
Use of committee room, 26.
Municipal election, at, 61.

CORRUPT PRACTICES,
Definition, 48.

COUNTY COUNCIL ELECTIONS,
Similarity of, and municipal elections, 67

ELECTION MEETING, see PUBLIC MEETING.

FORMS,
Canvass book, 10.
Canvassing card, 14.
Committee room, agreement for hire of, 24.
Warnings to volunteer assistants, 11.
Caution to, 13.

ILLEGAL PAYMENT, EMPLOYMENT, AND HIRING,
Definition and consequences, 57.
Enumeration of illegal payments, 57.
Illegal employment, 58.
Illegal hirings, 59.
Voter guilty of, prohibited from voting, 46, 57.

ILLEGAL PRACTICE,
Definition and consequences, 52.
Illegal practices by candidate or any agent, 53.
By candidate or election agent, 55.
By election agent, 56.
By whomsoever committed, 56.
Voter guilty of, prohibited from voting, 46, 52.

IMPROVEMENT COMMISSIONERS, ELECTIONS OF,
Differences between, and municipal elections, 68.

INTERPRETATION OF TERMS,
Blasphemy words, 36.
Bribery, 48.
Canvasser and canvassing, 8.
Club, permanent political, 21.
Committee, 18.
Committee room, 20.
Corrupt practices, 48.
Election meeting, 28.
Illegal payment, employment, or hiring, 57.
Illegal practice, 52.

INTERPRETATION OF TERMS—*continued.*
Licensed premises, 21.
Payment and money, in C. I. P. P. A., 53.
Pecuniary reward in C. I. P. P. A., 53.
Person in C. I. P. P. A., 53.
Personation, 49.
School, premises of public elementary, 22.
Seditious words, 37.
Supplied and sold, 63.
Treating, 49.
Undue influence, 49.

LICENSED PREMISES,
Definition, 21.
Committee rooms must not be on, 20.
At municipal elections, 62, 63.
At local board, etc., elections, 68.
Public meetings may be held in, 30.
At school board, etc., elections, 68.

LOCAL BOARD ELECTIONS,
Differences between, and municipal elections, 68.

MUNICIPAL ELECTIONS,
Differences between, and parliamentary elections, 61.

PERSONATION,
Definition, 49.

POLITICAL ASSOCIATIONS AND CLUBS,
Considerations as to accepting assistance from, 3.
Cannot canvass if acting independently of candidate, 4.
"Permanent political club," 21.
Candidate, when a subscriber to, 6.
Use of room in, as committee room, 22.
Committees should not be appointed by, 18.

POOR LAW GUARDIANS, ELECTIONS OF,
Differences between, and municipal elections, 68.

PUBLIC MEETING,
Advertising the election meeting, 30.
Place where held, no restriction upon, 29.
Election meeting, what constitutes an, 28.

PUBLIC MEETINGS—*continued.*
Chairman and his functions, 31.
Disturbers, expulsion of, 32.
Stewards and persons to keep order, 33.
Lecturers and speakers, 33; and see SPEECHES.
Report of, when libellous, 39; and see REPORTS.
Expenses of, 30.
Candidate's companions at, who should be, 30.
Right of audience to express disapproval at, 32.
Expenses of, 30.
Municipal elections, at, 65.
Local board, etc., elections, at, 68.

REFRESHMENT,
Refreshment house not to be used as a committee room, 20.
Refreshment to workers, an illegal payment, 58.
Volunteer assistant, must not be given to, 2.

REGISTER OF VOTERS,
Where obtainable and at what cost, 9.

REPORTS.
Corrupt conduct, imputations of, 39.
Libellous comments, 39.
Newspaper reports of public meetings, 38.
Newsvendor of libellous newspaper, 40.

SCHOOL BOARD,
Differences between elections of, and municipal elections, 68.
Premises, when usable as committee rooms, 22.
At municipal elections, 62, 64.

SPEECHES,
Licence in speech, 35.
Fair and *bonâ fide* comment on matters of public interest, 35.
Slanderous and blasphemous words, 36.
Seditious words, 37.
Contempt of court, words amounting to, 38.
Right of audience to express disapproval of speech, 32.
Lecturers and speakers, payment of, 33.
Travelling expenses of, 34.
Gift of night's lodging or breakfast to, 34.
Report of, when libellous, 39.
Vendor of libellous newspaper, 40.

TREATING,
Definition, 49.

UNDUE INFLUENCE,
Definition, 49.
Canvasser must carefully avoid, 16.

VOLUNTEER,
Agents of candidate, when, 1.
Dangers of employing, 2.
Functions of, 2.
Lecturers and speakers, 34.
Remuneration of, impossible, 2.
Steward or person to keep order at election meeting, 33.
Warnings and caution to, forms of, 11, 13.

VOTING PAPERS,
Offences as to, at local board, etc., elections, 69.

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